

**THE HAMAS ASSET FREEZE AND
OTHER GOVERNMENT EFFORTS
TO STOP TERRORIST FUNDING**

HEARING
BEFORE THE
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
OF THE
COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES
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THE HAMAS ASSET FREEZE AND OTHER GOVERNMENT EFFORTS TO STOP TERRORIST FUNDING

Wednesday, September 24, 2003

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATION,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:14 a.m., in Room 2128, Rayburn House Office Building, Hon. Sue Kelly [chairman of the subcommittee] presiding.

Present: Representatives Kelly, Fossella, Shadegg, Oxley (ex officio), Gutierrez, Matheson, Inslee, Maloney and Crowley. Also in attendance was Representative Ackerman.

Chairwoman KELLY. [Presiding.] The committee will come to order.

This morning we will continue the subcommittee's investigation into terrorist financing. We last met in March to review a number of important enforcement cases against terrorist groups threatening our way of life. Today, we will review recent developments in the ongoing war against terrorist groups, focusing on Hamas, the Palestinian organization responsible for many heinous acts of terror.

Hamas has threatened the State of Israel and taken credit for atrocious attacks that have killed hundreds of innocent civilians, including Americans and other individuals from countries around the world. Equally disturbing, the group has been able to finance this terror through complex and sophisticated schemes that include significant assistance from international charities. People reaching deep in their hearts and pockets to ease the suffering of individuals less fortunate should know that they are helping their fellow citizens, and not contributing to the massacre of innocent men, women and children. It is time to stop these intolerable actions, and today we will explore the landscape of issues surrounding these efforts.

The United States Government has set an example for the world by clamping down on these groups and seizing their financial lifeblood through the help of new tough federal laws, including the USA Patriot Act. Shortly after September 11, 2001, law enforcement took down the Holy Land Foundation, a leading Hamas support group. Key officials from Holy Land and an associated computer company have since been indicted for their support of Hamas activities and are scheduled to go on trial next year. This is a significant victory for law enforcement, but Hamas continues to lurk

in the international community, and we must not rest in our pursuit of terrorists and their financing. We have to be resilient in our quest to protect the American people by tracking down and draining terrorist funding, and in particular the Hamas funding.

On August 22, the President displayed steadfast leadership with an announcement to freeze the assets of key Hamas leaders and specific international charities supporting the group. This decision demonstrates the Administration's commitment to the war against terror, and it sends a clear message to the world that organizations linked to this heinous group will not be tolerated.

To drain the funding of terrorists, there must be a coordinated effort of countries throughout the world. America expects nothing less than the highest level of cooperation from financial institutions, international entities and foreign governments across the globe.

Today, we will hear testimony from the Treasury and State Departments to learn how other countries are supporting us in this important step to rid the world of terror. I would like to commend the Administration for appearing here today to shed some light on these issues. The American people, families of victims and innocent civilians need and deserve to know whether countries that have made big promises to stop terrorists are in fact backing up their promises with actions.

I am pleased that the European Union has followed President Bush's leadership and recently agreed to freeze the assets of the political wing of Hamas, a major victory for the freedom and security of citizens across the world. But the world has yet to hear a solid declaration of support from the EU for stopping deceitful charities, and they must at least match the President for any freeze on Hamas to be effective. I am hopeful that the international community will continue to work with us on these efforts to track down illicit money and help save lives.

To date, it is promising that our government has experienced many victories with our international partners in the war on terrorist financing. According to the Treasury Department, the United States has seized or frozen nearly \$200 million in terrorist-related assets and designated over 315 individuals and organizations as terrorists, or part of terrorist support networks. These are successes. They are big successes, and these successes have led Steven Emerson, a premier expert on the terrorist groups who has testified before this subcommittee, to assert that, "the United States, U.S. law enforcement, the Department of Justice and other agencies have done a phenomenal job" in fighting terrorism.

I believe these and other major victories are attributable to the outstanding leadership shown by our President and this Administration, including the Departments represented here today. I would specifically highlight the work of one of our witnesses, David Aufhauser, the General Counsel of the Treasury Department. Mr. Aufhauser is the chair of the U.S. Government's Coordinating Committee on Terrorism Financing and a leader in implementing the USA Patriot Act.

Many Americans are unaware of the countless hours of policy discussions here, and negotiations with foreign governments overseas that Mr. Aufhauser has led to jumpstart the global war on ter-

rorism and protect us from future attacks. Mr. Aufhauser is leaving the Treasury Department, and on behalf of the subcommittee, sir, I thank you for your outstanding service to your country. We wish you all the best, and I look forward to hearing your views on the status of the war and any additional measures we should consider.

Joining Mr. Aufhauser are important witnesses from the State Department, the Department of Homeland Security and the FBI to discuss interagency coordination, important investigations, and their cooperation with financial institutions that have led to these successes.

The people in the country whom we are charged to protect do not care about bureaucratic ups or downs. They care about results, about stopping the evil ones from committing acts of mass murder. Thus far, the agencies in front of us today have been successful in doing that and we are very grateful to you. I would like to thank you for your appearance here today and I look forward to hearing about your efforts to protect the American people.

The Chair notes that the presence of members of the full committee will be in and out because we have a very busy schedule today. We all welcome you, however. I ask unanimous consent that all members present today will have their statements, questions and the answers to those questions included in the record. Without objection, so ordered.

[The prepared statement of Hon. Sue W. Kelly can be found on page 41 in the appendix]

Mr. Gutierrez?

Mr. GUTIERREZ. Thank you very much.

Good morning and thank you, Chairwoman Kelly, for holding this important and timely hearing. I look forward to hearing the testimony from today's witnesses on the instrumental role they play in the fight against international money laundering and terrorist financing.

We all know that terrorism is a global problem and that our fight against terrorist financing needs to be a broad-based effort that extends beyond our borders. Enhancing international cooperation between local agencies and countries around the world is essential to eliminating terrorist networks and winning the fight against international money laundering practices.

I hope to hear from the agencies today about their success stories, as well as the obstacles that currently hinder their ability to permanently block and break the conduit of permanent financing around the world, including what they are doing to enhance cooperation with countries that pose challenges to the success in tracking down and stopping terrorist funding.

I would like to thank them all, all of the panelists, for their work, and the work of their coworkers and each of their departments and divisions for what they have been doing. Let me just suggest that one of the things, Chairman Kelly, I like about being on the banking committee is that so many of the things that we do affect me personally. Whether it is getting a credit report or refinancing my house or, understanding the rules and regulations, or hiked interest rates. I mean, if it was about nuclear fusion, I would not have much to say about it.

I recently went down to the Congressional Credit Union. The Congressional Credit Union gave me some advice. They said, well, here is a place, Congressman Gutierrez, where you can invest some money safely. So I did that. They issued a check, at my request, from the Congressional Credit Union, from Congressman Luis Gutierrez. And 2 weeks later, the people that I sent the check to sent it back to me, saying sorry, Congressman Gutierrez, we cannot accept this money from you, even though we know you are a congressman in good standing, and even though it was from the Congressional Credit Union because it was sent on a cashier's check. I think that bodes well for what we are doing. We want to make sure that everybody has a standard, even for members of Congress. A standard where institutions are equipped with the technology, experience and infrastructure to ensure transactions are for legitimate purposes. That is a good thing.

I want to ask some questions later on making sure that Hamas and others, who want to commit terrorist attacks are cut off from financing to commit these attacks. I also want to ask questions about what kinds of strengthening we need to make, what kind of successes we've had and ensure that something other than an innocent deposit or investment is also looked at very, very carefully.

So I just want to say this, the legislation worked. That is a good thing, I was not testing it, it just worked and I learned a lot about the processes involved.

So I want to thank all of you. It is good to see you all again before the panel. I look forward to listening to your testimony, and I am happy and delighted to see the members that are on our panel, and I thank the Chairwoman for allowing members on my side of the aisle who wish to participate in this hearing to participate in this hearing and to ask questions as they feel pertinent. I welcome Mr. Ackerman, a member of the Capital Markets and Financial Institutions subcommittees, for his interest in being here this morning.

Thank you, Chairwoman.

[The prepared statement of Hon. Luis V. Gutierrez can be found on page 43 in the appendix.]

Chairwoman KELLY. Thank you, Mr. Gutierrez.

If there are no further opening statements, let me just see. Mr. Ackerman?

Mr. ACKERMAN. Thank you very much, Madam Chair, for allowing me to participate in this very important hearing today. I would also like to extend my appreciation to Ranking Member Gutierrez for his cooperation in this regard.

The subject of the hearing is a critical one, and I am eager to hear more about the efforts that the Bush Administration has made to finally achieve some kind of Saudi cooperation in preventing the movement of money to Hamas. The past 3 years have been tumultuous ones for Saudi Arabia, and I think as a result of the tragic bombing earlier this year in Riyadh, the royal family appears to have finally concluded that without a real shift in Saudi Arabia's approach to the war against al Qaeda, their own skins were genuinely at risk.

Consequently, al Qaeda can no longer assume that their operations and personnel in Saudi Arabia are safe, and that the king-

dom will forever remain a passive target. Al Qaeda cells in Saudi Arabia are being hunted down, one should note, with considerable assistance from the United States. There are even signs that the Saudi government is beginning to comprehend the threat posed to their kingdom from Islamic radicals and fanatics promoting subversion from within. There is a long way to go, but there are some hopeful signs.

My concern, however, is that the initial success will be used not to justify additional measures, but resume passivity and apathy. In this regard, the obvious test for the Saudis will be their attitude towards Hamas. Only weeks before September 11, 2001, I met with the Saudi crown prince in Jeddah. We discussed a broad range of issues, including the Middle East peace process and the threat that radicals posed to the kingdom. At the time, the crown prince acknowledged that the two issues were linked. The terrorist violence against Israel and Israel's military responses have the effect of stoking Islamic hostility to so-called moderate Arab governments, including Saudi Arabia.

Caught between Saudi public opinion demanding support for the Palestinians and their own understanding that violence was entirely counterproductive to Palestinian aspirations, as well as their own interest in regional stability, the Saudis pressed the Bush Administration to take a more active role in promoting the peace process. This tension ultimately resulted in the adoption by the Arab League of the Saudi peace plan, which recognized for the first time that a Middle East peace would require full and normal relations between the Arab states and Israel. I am not endorsing the Saudi plan, but its significance should not be overlooked either.

The problem, of course, has been one of consistency and clarity. The very top of the Saudi Government recognizes that Palestinian terrorism not only destabilizes the region, but legitimizes the methods of al Qaeda within Saudi Arabia. Despite this understanding, the Saudi government has continued to act as though contributions to Hamas had no other effect besides assisting genuinely needy Palestinians. Nothing, of course, could be further from the truth. The idea that Hamas can be neatly segmented into parts which are safe and parts which are dangerous is ludicrous.

Hamas is a terrorist organization overtly committed to wiping out the State of Israel through the use of indiscriminate violence. Unlike even the Saudis who have said they would accept full peace in exchange for a full Israeli withdrawal from the West Bank and Gaza, Hamas exists not to create a state, but to destroy one. They are a malignant presence in the peace process, a political tumor which threatens the entire Palestinian body politic. Support for Hamas is, by definition, harm to legitimate Palestinian aspirations. The Bush Administration's peace plan, the roadmap, was built upon the idea that Palestinian statehood is not possible until Hamas and other terrorist group are destroyed.

Tragically, Saudi Arabia waited until al Qaeda struck on their own soil before recognizing the danger of terrorism and that which is posed to their own security. Will the Saudis now passively wait until the Palestinian advocates of a two-state solution to the Israeli-Palestinian conflict are pushed from the scene? Will they

wonder how the prospect of Middle East peace was lost for another generation?

Again, I want to thank the Chair and the Ranking Member for putting together this important hearing. I am eager to hear from the witnesses about what the Bush Administration is doing to bring about some rationality to this problem, and what responses they are preparing in the event that Saudi Arabia chooses not to match its terrorist financing policies with its own stated diplomatic goals. Peace in the Middle East may depend upon those answers.

Thank you very much, Madam Chair.

Chairwoman KELLY. Thank you, Mr. Ackerman.

Apparently there are no further opening statements, so I will introduce our distinguished panel. We welcome the Honorable David Aufhauser, General Counsel of the Treasury Department; the Honorable E. Anthony Wayne, Assistant Secretary for Economic and Business Affairs at the State Department; Mr. John Pistole, Assistant Director of the Counterterrorism Division of the FBI; and Ms. Marcy Forman, Deputy Assistant Director, Financial Investigations Division in the Department of Homeland Security.

We welcome all of you. We thank you for being here and we look forward to your testimony. I want to welcome you on behalf of all of the committee. Without objection, your written statements and any attachments will be made part of the record. You will be recognized for 5 minutes. If you have not testified before, the light box at the ends of the table indicate your timing. Green is plenty of time, but when we get to yellow, you have 1 minute to sum up. Of course, we all know what red means, stop.

We will begin with you, Mr. Aufhauser. Thank you.

**STATEMENT OF DAVID AUFHAUSER, GENERAL COUNSEL,
DEPARTMENT OF THE TREASURY**

Mr. AUFHAUSER. Thank you, Madam Chairwoman, and thank you for perhaps sacrificing what credibility you have with this committee with such gracious comments about me. I really appreciate that.

I studied poetry in college, actually. When I arrived at business school for graduate work for which there might be hopefully a vocation, there was a mandatory accounting class and the class was called "control." I thought the name was wildly overblown and contained a certain amount of conceit. But after 3 years's tenure at Treasury, I know that Harvard actually got it right. The better part of my tenure, both as a lawyer and as Counselor to the Secretary, and as the head of the Treasury enforcement after homeland security reorganization, has been devoted to ferreting out or dealing with the consequences of false accounts, accounts that bankrupted tens of thousands of people at Enron and in WorldCom and in HealthSouth; accounts that permitted the Hussein regime to mock the U.N. sanctions program, to rearm, and to stain the sands of Iraq with the blood of some of the best of our kids; and accounts that have been used to populate the world with terror and the death of many innocents.

Nothing is more damning of our international financial system that the casualness that permitted such chicanery and lethality. Nothing is more tragically ironic than the liberal use made by our

enemies of our technologically advanced borderless financial world today, to destroy the 3,000 people who brought tempo, purpose and life to its very symbol, the World Trade Center.

Nothing also in this shadow war against terror, in my judgment, is more achievable and more sustainable, and nothing has more real-world immediate consequence than denying terrorists their currency. There may be an infinite number of ways that a terror cell can divine how best to apply \$100,000 in funds to Holy Jihad, but all such violent invention is forfeit if the money never materializes.

Let me state it differently in the context of Hamas, the central subject of today's hearing. Let's call it by its proper name, the Islamic Resistance Movement. It has killed well over 300 people since its founding in 1994, many of them Americans, far too many in the past year alone. It has a charter to raise the banner of God on every inch of Palestinian territory. It rejects the peace process and coexistence. It preaches literally that there is no solution to Palestine except through holy war. And of course, that war is fought with a weapon of choice, which is an obscenity, suicide bombing, the premium targets of which are children riding on buses, buying dates or fruits, or even attending school.

I do not discount the singular importance of the political process to try to eliminate the hate that spawns such malevolence, but in the meantime I want to stop the killing as soon as possible. You can do it, or at least diminish the body count, by seeking to bankrupt the organization or urging its contributors, its thousands of contributors around the world, that there are alternatives to deliver the default civil community services in Palestine that Hamas now delivers, without at the same time underwriting parallel campaigns of terror.

And do not fall victim to the narcotic that a suicide bomb costs pennies. Hamas receives tens of millions of dollars a year to underwrite its political agenda. Too much of that is diverted to make bombs, to plan teen centers, and to advertise or boast of the killing. The numbers, of course, are more staggering when we focus on the kleptocracy of Saddam Hussein, but it has yet to be secured. What started with great promise with U.N. Security Council Resolution 1483's mechanism for repatriation of stolen assets, has turned unfortunately into a holiday or a nightmare of excuses not to comply immediately with our request to get that money back to Iraq for reconstruction. Estimates of more than \$1 billion or \$2 billion is believed to remain in Syria alone. Lebanon has pledged to repatriate \$495 million, but the pledge remains unfulfilled. And Jordan's once \$750 million has dwindled as local creditors have laid siege to the funds prior to transfer.

As for the hidden wealth of Hussein, the security situation in Iraq has significantly handicapped attempts to exploit mountains of financial documents and scores of witnesses located in the country. It has in fact relegated the financial investigation to a non-priority status and thereby undermined all sense of urgency, in my judgment. Although there are compelling competing interests in Baghdad today, I actually think the strategy is penny-wise and pound-foolish. Although Treasury and the FBI and Customs investigations to date have made significant advances which we may

discuss today, every passing day compounds the difficulty of finding more meaningful sums abroad. How those funds are being applied today may in fact be threatening of the soldier we pray to protect and defend. I hope that is an imagined ill, but we will not know unless we engaged in a professional and thorough hunt for the assets.

The \$500 million secured to date from the Bank of International Settlements, from Japanese sources and from a payment back of a loan through the U.N. oil program is laudable and validates the wisdom of the enterprise of trying to secure this money and get it back to Baghdad, but it should be the floor and not the ceiling of our ambition.

Thank you.

[The prepared statement of David Aufhauser can be found on page 45 in the appendix.]

Chairwoman KELLY. Thank you very much, Mr. Aufhauser.

We turn now to Mr. Wayne.

STATEMENT OF HON. E. ANTHONY WAYNE, ASSISTANT SECRETARY FOR ECONOMIC AND BUSINESS AFFAIRS, DEPARTMENT OF STATE

Mr. WAYNE. Thank you very much, Madam Chairwoman and honorable and distinguished members of the committee. It is a pleasure to be here and to give you this update in our efforts to fight the financing of terrorism.

Before I address Hamas, I would like to underscore how far we have come in interagency coordination and cooperation within the U.S. government. We have really made enormous strides in working fully in an integrated manner. A lot of this has in fact been because of the leadership that David Aufhauser has brought to the interagency policy coordinating committee. So I want to add my words of praise as he prepares to leave us, and my thanks also.

Our task, of course, has been to identify, to track and to pursue terrorist financing targets, and to work with the international community to take measures that can thwart the ability of terrorists to raise and channel those funds and thus carry out their heinous acts. We have briefed your staff in closed session on a number of the issues, and there may be some questions that we would have to reserve the answers for in a different setting, a more closed setting. But we will endeavor to give as clear and broad a picture as we can today here of all that has been going on.

I think you know, Madam Chair, that a key part of this effort has been working under the President's Executive Order 13224, because that order has allowed us to freeze the assets of 321 individuals and entities. But I want to stress that our activities go well beyond the public action of freezing assets. We very successfully used a whole range of actions which include diplomatic initiatives with other governments to conduct audits and investigations in areas under their control, exchanging information on records, cooperating on law enforcement and intelligence efforts, shaping new regulatory regimes where none existed before in other countries.

So designations are just one way, a very public way, of acting, but in some cases they are not the most effective way to act. So in our interagency work, we very carefully try to develop the infor-

mation we have on a target to make sure it is credible, that we have a reasonable link between the target and terrorism. Then we weigh the options that we have available to best address that target, to make sure it is an effective approach.

We realize that a number of times we shift directions, and we shift our tactics to make the most effective overall strategy. We want to be right. We want to be legal, and we want to be effective in what we are doing. At the end of the day, all of these actions, all of these methods have combined to make it much more difficult for terrorists to move and collect funds around the world, and in particular through regular financial and banking channels.

I want to underscore that internationally the United Nations has played a crucial role in this fight against terrorist financing, because it has helped to give an international impetus and legitimacy to asset freezes and to underscore the global commitment against terrorist financing. This is important because as you know most of the assets the terrorists use are not found in the United States. They are transiting other parts of the globe, and we need others cooperation to be effective.

When we are talking about al Qaeda in particular, we have very successfully used the United Nations process where all 191 U.N. member states are obligated to implement sanctions, including asset freezes. The U.N. has added some 217 names to its consolidated list since September 11, 2001.

Let me mention the recent Hamas designations. On August 22, as you mentioned Madam Chair, the President announced the designation for asset freezing of five Hamas fundraisers, the Comité de Bienfaisance et de Secours aux Palestiniens, the Association de Secours Palestinien, Interpal, Palestinian Association in Austria, and Sanabil Association for Relief and Development. He also announced the designation of six top Hamas leaders. Earlier in the year, we had already designated for asset freezing another Hamas charity, the Al-Aqsa Foundation.

Hamas's recent suicide bombings demonstrate the organization's commitment to undermining real efforts to move towards a permanent peace between Israel and the Palestinians. Hamas and other Palestinian rejectionist groups must not be permitted to undermine the aspirations of the Palestinian people for a viable, secure state living side-by-side with Israel in peace and security. This is behind the President's actions. Shutting off the flow of funds to Hamas is crucial in reducing Hamas's ability to carry out its goals and to thwart progress towards peace. Hamas has used its charities to strengthen its own standing among Palestinians, at the expense of the Palestinian Authority.

In light of this, we particularly welcomed the recent decision by the European Union to designate Hamas in its entirety as a terrorist organization. As you mentioned, Madam Chair, previously the EU had only designated the so-called military wing of Hamas, the Izzadin al Kassem, as a terrorist entity. We have also been urging consistently governments throughout the middle-eastern region to take steps to shut down both Hamas operations and offices, and to do everything possible to disrupt the flow of funding to Hamas and other Palestinian organizations that have engaged in terror to disrupt the peace process and the peace efforts.

This is a sensitive issue. Some of these financial flows are used to support charitable activities. But we have no doubt that donations to Hamas for charitable purposes free up funds for use in terrorism. We will continue to engage with regional governments to prevent any funding of Hamas and other groups that engage in terror.

We are also continuing to engage with the European Union. In our discussion with many states and governments of the European Union, they have raised concerns about addressing the basic humanitarian needs of the Palestinian population. Even as we try to shut off the flow of funds to Hamas, it is important to remember that a significant portion of this money has gone to provide extensive basic services to the Palestinian population, services which the Palestinian Authority does not yet have the resources to step in and provide. This is a concern that the United States shares, and we are working with our Quartet partners and others to address this issue.

Let me briefly comment on one issue. There is often talk and very useful exchanges on what we mean by “diplomatic action,” as contrasted, say, with arrests or as contrasted with public designations. I want to explain that we at the Department of State consider ourselves second to no other agency in the forcefulness and persuasive potential of the tools at our disposal, even though that may seem a bit odd to those who think about diplomatic activity.

But when we talk about diplomatic approaches, what we are really talking about is getting other governments to cooperate in the war against terrorist financing by taking concrete actions on their own. That includes law enforcement and intelligence actions. It includes getting them to speak out publicly against terrorist groups. It includes taking actions to bring court cases against terrorists, to extradite terrorist financiers, to pass strong anti-terrorist financing legislation, to prohibit funds from being sent without proper supervision to charities overseas, and to make sure that companies that might be funneling funds to terrorists are shut down.

So diplomatic action really is aimed at producing concrete action. It is aimed at improving the ability of our colleagues in the law enforcement and the intelligence community to work more cooperatively with their counterparts overseas.

As we move forward, let me just assure you that we are looking at targets wherever they may be in the world. We are working intensively in the Gulf with the government of Saudi Arabia, with the other governments in that region. We are working intensively in Asia to continue, for example, to confront the challenge put forward by Jemaah Islamiyah.

We are also looking around the world at where there are vulnerabilities in governments that want to cooperate with us. I think, as you know Madam Chair, that there are shortcomings in capacities around the world. So we have tried to put a good deal of effort working interagency together to provide the kind of training and the kind of technical assistance that will really build that capacity among the governments that want to cooperate with us. We are finding a real responsiveness. We are finding many coun-

tries now putting the legislation and the regulations in place to help us.

We look forward to working with you in this process, to keeping you informed and to have your participation with us as we move forward.

Many thanks.

[The prepared statement of Hon. E. Anthony Wayne can be found on page 70 in the appendix.]

Chairwoman KELLY. Thank you, Mr. Wayne.

Mr. Pistole?

**STATEMENT OF JOHN PISTOLE, ASSISTANT DIRECTOR,
COUNTERTERRORISM DIVISION, FEDERAL BUREAU OF IN-
VESTIGATIONS**

Mr. PISTOLE. Madam Chair Kelly, other members of the committee, thank you for the opportunity of being here today. On behalf of the FBI, I would like to take just a couple of minutes to explain what the FBI's role in the war on terrorism financing is and how we interact with our partners and my esteemed colleagues here and all the individuals they represent in terms of terrorism financing.

As I believe the subcommittee is aware, the FBI created the Terrorism Finance and Operations Section within the Counterterrorism Division shortly after the September 11 attacks two years ago. The focus of the Terrorism Finance and Operations Section was, first, to identify all of the funding associated with the 9-11 hijackers, and then secondly to conduct terrorist finance investigations for other individuals perhaps similarly situated, and to try to do some type of predictive analysis to locate, identify and disrupt other terrorism financing that may be going on in the U.S. that we could share with our domestic law enforcement intelligence community partners, and also our foreign intelligence and law enforcement partners.

The key to all of this is to prevent future terrorist acts. We have had several successes in that regard that have not been publicized due to their sensitivity, but let me just comment on four specific instances since April this year where we have received information from a foreign intelligence service about a certain financial transaction which we have been able to track with specific time, date, location through liaison and utilization of private banking and financial services industry contacts. We were able to take the information provided by those contacts, provided to the foreign intelligence service. They then have been able to take specific action to arrest and disrupt those imminent terrorist attacks, and have credited the U.S. government for that. So I would like to highlight those successes.

We have current investigations ongoing on a number of different fundraisers which we believe are associated with terrorist activity, and those take on the two primary roles. One is to focus on the illegal activity that may be conducted here in the U.S. that would generate funds for terrorist activity, whether it is drug trafficking or some type of credit fraud or other types of fraud that money is then used to support terrorism overseas or here in the U.S.

The other area that we focus in on, as has been mentioned, is charitable giving, and those individuals who either wittingly or unwittingly are giving to charitable organizations or nongovernmental organizations that then may divert some of those funds to terrorist activity. So that is the focus of our two types of investigations.

We have had a number of successes. In addition to the actual disruptions, we have the leader in the U.S. of the Benevolent International Foundation, BIF, who has pled guilty and was sentenced to 11 years. Recently, we have a number of other leaders under indictment here in the U.S. Of course, not convicted yet, so we cannot assess their guilt at this point, but they are under indictment and those are outlined in my written statement.

Congressman Ackerman raised the issue of the Saudi cooperation. I would like to just take a minute to address that. I have been in Saudi twice since the May 12 bombings, and have seen dramatic cooperation from the Saudis in terms of specific demonstrable steps they have taken to identify and eradicate al Qaeda in Saudi. Just yesterday, an individual that the FBI had put out information looking for this individual, Zabayr al-Rimi, was located in southern Saudi Arabia near the Yemen border. As the Mabahith, the Saudi interior service, tried to arrest him, they engaged in a gun battle and al-Rimi and another individual were killed. Notably also, a Mabahith officer and two others, one was killed and two critically wounded, which brings the total to over a dozen Mabahith officers who have been killed since May 12 trying to locate and apprehend al Qaeda individuals.

Secondly, the sensitive matter that has not been publicized so I cannot go into detail, but in the last 2 days, the Mabahith under the direction of the Deputy Interior Minister Mohammed Ibn Naif and General Abdul Aziz and General Kolaad have taken steps to apprehend a number of individuals that were identified in a joint FBI-Mabahith operation. Those individuals have been located and apprehended in another sign of cooperation. Obviously, there is a still a lot to do in the area of terrorism financing, and we are taking specific, articulated, measurable steps to address that.

In conclusion, the FBI, along with our law enforcement intelligence community partners here represented at the table, and not here, both here and abroad, have dedicated substantial resources to identifying and disrupting the flow of terrorism financing. As I have noted, we have had a number of successes. Are we satisfied at this point? No, absolutely not, because there is much more to do. Are we convinced that we can stop all the funding that goes to terrorist activity? No, I do not believe that anybody is that naive to think that we can stop all the funding, but if we can stop \$1 that is used to buy bullets or bombs, then that is the success that we would like to follow up on.

Thank you, Madam Chair.

[The prepared statement of John Pistole can be found on page 60 in the appendix.]

Chairwoman KELLY. Mr. Pistole, this committee would be interested in working with you to set up a classified briefing so you could give us some more information if you are willing to do that. We would appreciate it.

Mr. PISTOLE. We would be very glad to do that, Madam Chair.

Chairwoman KELLY. Thank you very much.
We move now to you, Ms. Forman.

STATEMENT OF MARCY FORMAN, DEPUTY ASSISTANT DIRECTOR, FINANCIAL INVESTIGATIONS DIVISION, DEPARTMENT OF HOMELAND SECURITY

Ms. FORMAN. Good morning, Chairwoman Kelly and distinguished members of the subcommittee. It is truly a privilege to appear before you to discuss the ongoing accomplishments of the Bureau of Immigration and Customs Enforcement, BICE, Financial Investigations Division.

I would like to begin by commending Congress for its decisive and immediate enactment of the USA Patriot Act, enabling law enforcement to more effectively investigate money laundering activities and protect the financial systems of this nation. BICE began conducting financial investigations after the enactment of the Bank Secrecy Act of 1970. BICE is appropriately positioned to investigate international financial crimes due to its unique search authority, BICE's scope of statutory authority, its historical role, and significant experience in financial investigations.

The former Customs Service office investigations, not part of BICE, was committed to the identification, disruption and dismantling of criminal organizations, to include terrorist financing. The role of the BICE Financial Investigations Division was to defend the stability and strength of America's financial system, a system that is vulnerable to abuse by various criminal threats. BICE special agents apply their expertise to monitoring financial systems for vulnerabilities and to investigate those exploitations.

BICE defends these systems through a systems-based approach. The authorities granted by Congress have allowed BICE to aggressively analyze, monitor and patrol cross-border financial activities and to enforce America's money laundering and banking laws. BICE will continue to enforce these laws and work closely with our law enforcement counterparts to effectively preserve the integrity of our financial systems.

The BICE Financial Investigations Division has continuously evolved and matched its investigative priorities with the critical concerns of this nation. The BICE Financial Investigations Division is designed to identify vulnerabilities in our nation's financial systems through which criminals launder their illicit proceeds. In some cases, such as the Black Market Peso Exchange, the system itself is corrupt. In other cases, it is the criminal and criminal organizations that exploit the vulnerabilities of legitimate systems. Although these investigations historically involve money laundering associated with narcotics smuggling and distribution, BICE has expanded its arena of financial investigations to include violations of terrorist financing, illegal money service businesses, bulk cash smuggling, non-narcotic money laundering and cyber-crimes.

In response to the events of September 11, BICE has redirected its expertise to better identify financial systems that are being exploited by criminal or terrorist groups. From October 1, 2001 through June 28, 2003, BICE financial investigations resulted in 203 arrests, 111 indictments, 67 convictions and the seizure of approximately \$33 million. The successful results of this focused ef-

fort are attributable to the experience and expertise of BICE special agents.

BICE will continue to enhance its financial expertise through investigations that focus not only on the exploitation of financial systems, but the laundering of proceeds of drug smuggling, fraud, failure to report transactions, unlicensed money service businesses, and bulk currency smuggling.

I would like to take a moment to briefly outline some of our successes. In Seattle, 13 individuals were indicted for money laundering for alleged violations of the International Emergency Economic Power Act, for transferring \$12 million to Iraq. Several bank accounts were seized. One person, the main target, has been convicted so far, and additional prosecutions are pending.

In Los Angeles, a seizure of bulk currency outbound to the Middle East totaling approximately \$280,000 was made. Due to the enactment of the bulk currency statute under the Patriot Act, we were able to obtain search warrants and seize an additional \$2.2 million and charge the individual with bulk currency smuggling.

In New York, the investigation of an unlicensed money remitter revealed the illegal transfer of \$39 million to Pakistan. To date, this investigation has resulted in 10 indictments and convictions for operating an unlicensed money service business.

And lastly in Miami, an individual associated with a narco-terrorist group, was charged with operating an unlicensed money remitter service and it has been revealed he has laundered in excess of \$100 million for this organizations.

For these efforts, BICE has developed financial expertise in the money laundering methods that exploit charities and other non-government organizations, money service businesses, alternative remittance systems, bulk currency smuggling and trade-based money laundering. Additionally, BICE financial investigations have directly benefited from the USA Patriot Act, specifically in the areas of expanded authority to identify accounts belonging to suspects and the statutory changes related to unlicensed money service businesses and bulk cash smuggling.

In connection with the consolidation of Customs, Secret Service and Immigration, Secretary Ridge and Attorney General Ashcroft signed a memorandum of agreement on May 13 of this year clarifying the roles and responsibility of DHS and the FBI investigators on terrorist financing. The BICE Financial Investigation Division continues to apply its unique expertise in identifying means and methods used by criminal organizations to exploit financial systems through the transfer, laundering and concealment of the true source of criminal proceeds.

This mission is pursued by BICE's Cornerstone Program which was launched in July, 2003. Through Cornerstone, BICE seeks to expand working partnerships with industry representatives, to share information and typologies, and to identify and eliminate vulnerabilities that can be exploited by criminals and terrorist organizations. Cornerstone will systematically and strategically examine financial systems that may be susceptible to abuse. Cornerstone relies on a worldwide network of 37 foreign attache offices who maintain critical relationships with corresponding foreign law

enforcement and government entities. These relationships facilitate the timely and proper exchange of investigative information.

To aid the financial industry in its effort to shore-up vulnerabilities in systems and infrastructure, BICE Financial Investigations Division is implementing the systematic homeland approach to reducing exploitation, also known as SHARE. In concert with the Secret Service, BICE and Secret Service will host semi-annual meetings with executive members of the financial and trade communities on their impact on money laundering, identity theft and various other financial crimes. "Tripwire," is a quarterly newspaper that BICE will provide to the financial sector under SHARE to address emerging trends, patterns and typologies in the money laundering arena.

In conclusion, BICE special agents have historically been recognized among the law enforcement community and the federal government for their expertise in the analysis and investigation of illegal international financial activity. That experience and BICE's knowledge has been assimilated into the Department of Homeland Security, expanding the scope of investigations to include the financial aspects of U.S. immigration law violations. Along with our law enforcement partners, BICE will continue to address future threats to our financial systems, regardless of the source or nature of those threats.

In conclusion, I would like to thank the distinguished members of this subcommittee for the opportunity to testify before you today. It would be my pleasure to accept any questions.

[The prepared statement of Marcy Forman can be found on page 54 in the appendix.]

Chairwoman KELLY. Thank you very much, Ms. Forman. I have a couple of questions here I would like to lead off with. Mr. Aufhauser, what is the Treasury's vision for the role it can play in combating terrorist financing? And in what ways can this committee be of assistance in that effort? I also would like to know, should the Treasury continue to lead the Presidential Coordinating Committee on Terror Financing? I would like your opinion on that. So it is basically one question with two parts.

Mr. AUFHAUSER. I am happy to answer as long as I do not sound presumptuous. It is the President's choice who leads his committee. The division thing, if I can address it, I will make an unremarkable statement, but I still think enlightening. I think the Treasury Department has two or three core functions. The first is to collect the revenue so you all can decide how it is to be appropriated. The second is to principally to promote and sustain the integrity of our financial systems and our markets, principally to promote wealth creation, which is a proxy for liberty, but also in this day and age of terror, to make sure that the financial system cannot be used as a weapon of corruption of, indeed, violence.

Right now, the Treasury Department has five core national security responsibilities, the application, implementation, supervision and design of the economic sanctions program, a field which I will tell you in my judgment will become increasingly turned to as we learn that the shadow wars that we are fighting around the world cannot be fought with bullets, but need to be fought with the good diplomacy of Tony Wayne and the State Department, but more im-

portantly the muscle of a good, smart economic sanctions program. That requires a particular genius because it is a very challenging task to have a sanctions program that visits injury where we want to visit injury without doing harm to innocents.

The second core area of national security which is part of Treasury's mission is, of course, money laundering and our money laundering provisions both domestically and abroad. No one does that better. No one does it better because we live and breathe it. It has been our legacy. We have the expertise. We have the contact abroad to seek endorsement of standards and best practices. It is a critical function of the Treasury Department.

The third is perhaps a subset of that, which is of course terrorist financing. In the terrorist financing area, there is always the chance that the strategic will become forfeit to the tactical. That is to say, in a time of war we get financial intelligence on a daily basis, and it is frequently shared by myself and Mr. Wayne and Mr. Pistole and others in Wednesday morning meetings that I chair, where we try to examine what we have learned that week about potential threats from a financial intelligence point of view.

There is a bias, I think understandable, laudable, probably absolutely correct, to use that information to make sure that we properly assess the threats and employ it to see if we can stop an event or a future calamity. Sometimes that means taking resources away from where I think we really need to always focus.

Chairwoman KELLY. Mr. Aufhauser, I only have 5 minutes, and I have a few more questions. So if you could sum that up, I would appreciate it.

Mr. AUFHAUSER. Okay, sure. The fundamental vision I have for Treasury is to continue the chief responsibility for promoting the financial integrity of the markets and the financial system so it cannot be corrupted.

Chairwoman KELLY. Thank you.

Assistant Director Pistole, you state in your testimony that Hamas's annual budget is at least \$50 million and it is impossible to differentiate between money used for social reform and terrorist attacks, although most money supports social programs and other contributions free funds for violence. How do you know this? Has anyone studied the issue? Is Hamas's money distributed to the West Bank through bank accounts in Europe and the Middle East? What percentage of it comes from the Persian Gulf?

Mr. PISTOLE. Madam Chair, let me address it obviously from the FBI's perspective. The \$50 million that I cited in my written testimony is based on U.S. Government intelligence estimates. There is no definitive number there, so it is not FBI information. It is simply a recitation of the intelligence community information. The funding that we focus on in the FBI is based on funds generated in the U.S. that is sent overseas then for overseas attacks, or for legitimate humanitarian causes. What I can speak to is the domestic aspect of that, and I would have to defer to my colleagues on the international aspects for their expertise on that.

Domestically, it is safe to say that there are millions of dollars generated every year here in the U.S. either through illegal activity or through contributions through NGOs such as have been mentioned, that is then sent to Hamas for use. The key question, which

I think you are getting it, is the end use. Who can define and who can identify that?

The example I gave of the four terrorist acts that we helped to prevent with the information is specifically linked to that foreign intelligence service that has been able to take the information we provided and then action that to actually go out and locate individuals who were picking up wire transfers, for example, and then linking them to other terrorist operatives, and then to prevent that act. So it is kind of a roundabout answer to say I have some of the information, but there is a lot more out there that we don't have.

Chairwoman KELLY. I wonder if Mr. Wayne could add to that. Do you know who studied the issue? Who is auditing this stuff?

Mr. WAYNE. We would like to have more people auditing it, clearly. Some of my colleagues, including those who are not here, could give you a more analytical and better view of this in a closed session, which we might want to have. But I can assure you that many people in this government and other governments have been working very carefully to address these questions.

We do think there is money flowing to Hamas from Europe, from the Persian Gulf, probably from other places. Some of it is going through organized charitable organizations, the five that we designated. Some of it is going from private individuals through channels with which we are not as familiar, but we are looking for carefully.

There are several different ways that we work on this. One is working with other governments and their information services, their law enforcement, their intelligence services. But we also have been working with the Palestinian Monetary Authority to help strengthen their capability to actually keep track of and stop illegal financial activity taking place on the West Bank and Gaza. We have regularly through our Consul General in Jerusalem and his staff conveyed our concerns about terrorism financing to the monetary authority.

USAID has been working in assistance programs to build up the technical capacity of that Authority to track financial flows in and out of the West Bank and Gaza. I know that the Department of Treasury has also been having discussions about technical assistance to give to them so that those in the Palestinian Authority have a better capacity from that end to try and track the money that is coming in and out and to learn how it is coming in and out. But, it is an ongoing process.

Ms. KELLY. Last week, Secretary Snow met with the senior Saudi officials. When he left, he indicated that Saudi Arabia has been a strong ally to the United States in this essential matter. That is a direct quote. What is the basis for this optimistic and sort of complimentary statement? How do we know that the Saudi government is really ensuring the transparency of the charities's operations so we know that they are not using them to fund terrorism?

Mr. Wayne, since you brought the Treasury into this, that is really a question I am asking both you and Mr. Aufhauser.

Mr. WAYNE. Let me start, and then let David follow up. The Saudi position is that the government of Saudi Arabia will not provide financial or other support to Hamas or other organizations. They have been providing financial support to the Palestinian Au-

thority to strengthen that Authority. They have also regularly in the past year spoken out in favor of a peaceful solution and criticized those who are undermining that peaceful solution to the Arab-Israeli conflict. Privately and publicly, Saudi officials have called on Palestinian extremist groups to reject violence and to work for a negotiated solution to the conflict.

The Saudis have also undertaken, and we can get into this in more detail, a number of steps in their regulatory structure to make it harder for charities to send money overseas without supervision, without checking where it is going. This was a major problem. They have taken a number of steps so that there cannot be cash transfers overseas, that money going to projects overseas has to be approved by the government. You may have seen some of the press reports. They have started taking the cash boxes out of mosques and the department stores and other places because it was too unregulated regarding where the money was going. We think this can help in this process.

But let me ask David to add more.

Mr. AUFHAUSER. I think Secretary Snow was relying upon significant strides that the Saudi government has taken. Let me be specific about this: Certainly a designation of a man named Wa'el Julaidan; certainly the restructuring of al-Haramain; certainly the investigation of its executive director; certainly the decoupling and closing of 10 of al-Haramain's offices around the world; new charities regimes which control the licensing of charities, control the accounts from which disbursements can be made that vet the signatories of it; that prohibit cash transactions by NGOs; that bar cash collections literally in mosques; the current vetting of clerics in their ranks; new anti-money laundering legislation which as we speak is being subject to an international audit team of Bayoffatif.

These are all extremely promising significant strides that the Saudis have made. But by no means have we crossed the bridge of the issue of terrorist financing emanating from Saudi Arabia. It remains a very challenging task. Hamas during the Hajj alone raises enormous amounts of money and sends their political director there. It is not a crime to give to Hamas in Saudi Arabia. Let me restate that. It is not a crime to give to Hamas in Saudi Arabia. Individuals are free to do so. In my judgment, it is not enough to say the government will not be giving money. It is only an invitation for individuals to do so. So we still have many bridges to cross.

But I do want to underscore what Secretary Snow was basing his judgment on. These are significant changes, sea-changes in Saudi Arabia, particularly post-May 11. The most important of which, from my parochial point of view, has been the establishment of the joint task force with the FBI and IRS agents because that gives us transparency and compulsory process for the first time on Saudi soil.

Chairwoman KELLY. Thank you very much.

Mr. Gutierrez?

Mr. GUTIERREZ. Let me ask, subsequent to September 11, we evaluated as a nation what measures we can take to prevent acts such as those that occurred at the World Trade Center on September 11. I think the general consensus was that the sharing of information between the CIA and the FBI and the Department of

Defense was not what it should have been, and had we shared information we might have been able to thwart something, and we might have been better prepared and more secure as a nation. We have also taken steps along the way to shore up and to address lack of sharing of information.

I just want to ask the panelists, State and the FBI, their opinion about the current structure. I think any lay person can see why Treasury is involved in this—that was so eloquently stated by the General Counsel. State needs to help internationalize the process. Regarding the FBI, I don't think there is anyone better at doing the work and protecting our nation. Even if Homeland Security is new, there is no lack of competence in the new organization, as the new organization was put together to fight exactly this.

Who is really in charge and command in fighting terrorist financing? I imagine you have to have a command structure so that someone is in charge and listening to Treasury and listening to Homeland Security and listening to the FBI, and gathering and centralizing the information, and then prioritizing where we are going to go so that each agency knows what its mission is. Who is in charge? Is there an organizational setup of who is in charge? How is it working between all of you? How are overlaps handled?

I would like to hear about the success of interagency cooperation and how it works, and again reiterate what the Chairwoman said. Is there something we can do to help facilitate that? That is a long question.

Mr. AUFHAUSER. No, I got it. I chair the Policy Coordinating Committee on Terrorist Financing for the National Security Council. It is the switching station, the clearinghouse, and the strategic policy think tank on terrorist financing. There are many subcommittees, one of the most important of which has no name. It meets every Wednesday morning in the situation room. It includes senior-level members of the relevant intelligence and law enforcement agencies where information is shared and discussed. Strategic targets are evaluated. Suggested programs for how to either develop further information or to take action are discussed and debated.

From that committee, we then take to a fuller PCC the issues of how best to deal with this potential target, whether diplomatic maneuvers, whether criminal action domestically, whether criminal action abroad, whether administrative action, whether freeze orders, or whether alternative action is justified and can be executed well to have real-world consequence.

We work largely on consensus, and that turns out not to be a handicap. It turns out to be a sobering and maturing process. Because there is so much consensus, we seldom have to take the matter up for further authority from the NSC. But when there are issues that are material or sensitive, such as let's say whether to take action against a particular target related to Hezbollah, we want to make sure we are not doing anything to interrupt the middle-eastern roadmap process. So we introduce the subject and tee it up in briefs to the deputy's committee of the NSC and discuss it, and ask them either to bless the recommendation or to amend it.

In terms of cooperation of information sharing, it has been extraordinary. It has been extraordinary. These Wednesday morning meetings are substantive, candid, naked. The role I usually play is you are not giving me enough, and the role the professionals usually play is you don't understand how difficult it is to give you what we are giving you because it is tough to find actionable intelligence in a terror world of shadows.

Mr. GUTIERREZ. We recently had to take up the issue. There was an amendment on the House floor about whether or not our government was going to have any financing mechanism vis-a-vis the Saudis which would have stopped us from bringing Saudis here to our country to train them. So the issue came up, and so it is an issue that we have to deal with in the House of Representatives about just where the Saudis are at. I think we can see, given the Chairwoman's questions and given the information in the debate, that there are differing opinions on just how committed and what actions the Saudi government has taken.

So that I am clear, just for the record, I voted against taking that kind of punitive action against the Saudis. I thought it was a little premature and that we did not have all of the information, that was my position. I just want to make sure so that I can take the information from this hearing as I make further judgments on this.

It is the position, then, of the Treasury Department and of the State Department that post-May 12 the Saudi government is taking genuine and vigorous measures to combat terrorism and the financing of terrorism, and that Secretary Snow's comments are well-warranted in terms of after his trip last week to say things are getting better there? Is it Treasury's view that things are getting better that they are more cooperative and that we are strengthening our relationship. If you would care to comment, I do not want to put words in your mouth, so I know you are going to want to re-phrase that, just so that I get your best sense.

Mr. AUFHAUSER. I do not mind your putting words in my mouth. I just don't want to put words in Secretary Snow's mouth.

Mr. GUTIERREZ. Okay.

Mr. AUFHAUSER. I am speaking as the head of the PCC on Terrorist Financing, probably the guy most intimate with the issue vis-a-vis Saudi Arabia. So I will give you my personal and professional opinion, which I can express with some impunity since I am leaving.

My sense is that the government over there lacked initiative prior to the May bombings, to take significant self-policing actions on this issue. The history before May 11 is a history of some grudging and discrete cooperation. When they have been responsive, for example when we have asked them to designate Wa'el Julaidan, a prominent Jeddah merchant, al Qaeda merchant, or to close down the al-Haramain in Kosovo, those actions were welcome. They were based on almost irrefutable statements of the case that we presented them. It is great credit to them that they followed those actions.

Having said that, whether it was done with complete commitment, the jury is still out. For example, it was far from clear from interrogations of Julaidan what was shared with us. Similarly, it was far from clear whether the al-Haramain offices in Bosnia and

Kosovo were indeed in effect closed down, or really whether they just morphed into another name in another place.

Also before May 11, there was a prejudice, I do not mean that in a pejorative sense, of the Saudi government to focus on systemic change, because it was a convenient way to avoid personal accountability. They focused on the charities commission. They focused on new laws. They focused on new anti-money laundering legislation, all of which are absolutely critical. But even on those, they publicly proclaimed and proudly proclaimed and should proudly proclaim those changes last November and December. But in March when I traveled to Riyadh with Cofer Black, it turned out they had not yet been implemented. So we, too, had to ask them and suggest to them that it was in their interest to follow through.

Mr. GUTIERREZ. My time has expired, but I just want to quickly say I look forward to working with Mr. Wayne and Mr. Pistole and Ms. Forman on this issue, and I would like to say God-speed to Mr. Aufhauser in his new endeavors.

Mr. AUFHAUSER. Let me just say thank you.

Mr. GUTIERREZ. I think he has done his level-best to give us the information and to come before us and to work with us. We will miss you here. Thank you.

Mr. AUFHAUSER. Thank you.

I want the record to be clear, you only have less than half the answer.

Mr. GUTIERREZ. Okay. Thank you.

Chairwoman KELLY. Mr. Oxley?

Mr. OXLEY. Thank you, Madam Chairwoman.

Let me also join the other members of the committee in thanking Mr. Aufhauser for his public service and the good work that he has done for our country in so many areas. We will miss your leadership and guidance.

Agent Pistole, you had talked about the four cases that were successful. One of the frustrating things about all of your jobs is that for the most part these do not get headlines or even a story, even a little story. As the President said in his post-9-11 speech to the nation, a lot of these victories will be won in the shadows and nobody will know about it. We appreciate all of your work in this effort that so many times really does not get the kind of notoriety and so forth that the public should know about. We understand why they don't know about it.

In your particular case and the four cases you mentioned, were these developed as a result of electronic surveillance, informants, a combination of both? In a general sense, obviously, and not get into detail on how those cases were made?

Mr. PISTOLE. Yes. In general terms, it is a combination of excellent human sources, coupled with electronic surveillance and the timely exploitation of information, which we have not been able to do previously, prior to 9-11, simply because there was not a mandate or an initiative to do so, but that combination of items that you have highlighted.

Mr. OXLEY. Let me interrupt. Was that as a result of the Patriot Act?

Mr. PISTOLE. In these examples, the Patriot Act helped in the sharing of intelligence that the FBI can gather, and then transform

that into actionable information without a cumbersome process. So yes, that has been beneficial.

Mr. OXLEY. So the predicate was the ability to share information that heretofore was not available?

Mr. PISTOLE. Yes. And in that regard, obviously we hope to continue with those successes which, if publicized, would actually change the way people do business, is our estimation. So we hope to continue that by protecting those sources and methods.

Mr. OXLEY. As you know, there are a lot of folks out there and in Washington that are very upset about the Patriot Act and have urged that Congress not renew the Patriot Act. As you recall, the Act had a sunset provision in it, something that I think was not wise. So I think those of us who supported the Patriot Act and believe in it and what it has been able to accomplish need to figure out a way that we can get the information out to the public so that they better understand what is at stake here and what this Act has been able to do in a positive way.

Mr. PISTOLE. I agree, sir. As you know, Attorney General Ashcroft has been out visiting a number of cities and highlighting as best he can in an open forum some of the successes and some of the compelling reasons why we in the United States who are charged with responsibility for protecting U.S. citizens from future terrorist acts need the tools available under the Patriot Act and actually would like to have additional tools such as administrative subpoena power, which we have in drug investigations, healthcare fraud investigations, a number of, quote "routine" criminal investigations, and which we do not currently have. So there are a number of reasons to expand within reason, the Patriot Act.

Mr. OXLEY. You make an excellent point. Here is a case where traditionally that power has been used against all kind of common ordinary crimes, and yet when we are dealing with the very threat to our security, law enforcement does not have that ability. It is frankly beyond me why people would make such a fuss about it.

Mr. PISTOLE. Just to take a moment to cite a specific example within the last week, where we had several suspicious individuals who checked into a hotel on the West Coast. We went to the hotel to obtain registration information. The hotel said, sorry, we cannot give that to you without a subpoena. So we had to go back to the U.S. attorney's office, and of course this is the middle of the night, to try to track somebody down, an assistant U.S. attorney, to obtain a federal grand jury subpoena to obtain this information.

If we had the authority to use administrative subpoenas, we obviously could have produced one right then, and if there was anything imminent about what these individuals were planning over the next several hours, perhaps something would have been missed because of the inability to obtain that background information so we could do our record checks, we could do foreign intelligence service checks, we could do all those things that are attendant to preventing future terrorist acts here.

Mr. OXLEY. If those same people had been involved in organized crime, it would have been an entirely different scenario, correct?

Mr. PISTOLE. Well, drug trafficking, anyway, or healthcare fraud, white collar crimes, something that is not a threat to the security of the United States in terms of terrorist acts, yes.

Mr. OXLEY. I want to ask Mr. Aufhauser and Assistant Secretary Wayne this one question. I know we have a vote, Madam Chairwoman. All the countries who are supposed to be our allies follow the President's lead in freezing assets of Hamas-related charities. Leaders in the European Union have recently targeted the political wing of Hamas. The EU has not, to my knowledge, cut off the charities as the President did. The Jordanian government imposed such a freeze, but then did a 180, apparently after they were criticized by Hamas.

I would like to ask both Mr. Aufhauser and Secretary Wayne, what action is the Administration considering to persuade the EU and Jordan to impose the freeze, in the case of Jordan to reimpose? Or should the Congress put a stamp on the process in some way?

Mr. WAYNE. Thank you. It is a very good question. First, we are very happy that through a lot of work by many people, including the Palestinian Authority, the EU foreign ministers did decide to designate Hamas. It was important that it was not only the United States saying they should designate Hamas, but they were hearing from the Palestinian Authority that this group was undermining the peace process through its violence, that that did help make a difference.

There is still a deliberative process, a debate going on in Europe about how to act against the charities that have been associated with Hamas. Up until now, the argument in some of the countries had been, we need to have specific concrete proof that will stand up in court that money that goes to the charities is actually going to terrorist activities. There is a court case going on in Germany against the freezing of the funds of the Al-Aqsa Foundation, that is questioning, which is a Hamas-related charity that is questioning along these lines.

Chairwoman KELLY. Mr. Wayne?

Mr. WAYNE. Yes?

Chairwoman KELLY. We need to go and vote.

Mr. WAYNE. Sorry.

Chairwoman KELLY. Can you finish that answer when we come back?

Mr. WAYNE. Sure.

Chairwoman KELLY. The Chair would announce a 10-minute recess while we go vote. Thank you.

[RECESS]

Chairwoman KELLY. The committee will come to order. If we could have our witnesses take their seats please.

Mr. Oxley asked if I would finish a question that he had started. The part that I believe he did not ask is what action the Administration is considering to persuade the EU and Jordan to impose the freeze. The other question was whether or not Congress ought to be putting their stamp on this. I am going to throw that open to all of you.

Mr. WAYNE. Thank you, Madam Chair. Let me take up, if not exactly where I left off, somewhere in between.

There was a big step forward in the EU decision to designate Hamas as an organization. We have been working for a long, long time to try and persuade the European Union that it really did not make sense to try to differentiate between a political and a military

wing of Hamas or a charitable wing of Hamas and a military wing; that if you are funding the organization, even if there are many charitable activities going on, there is some fungibility between funds. You are strengthening the organization. At a minimum, it is gaining credibility, and it has the opportunity to recruit people through its charitable activities.

So we think that this has been a big leap forward. The EU is now absorbing that decision that they have taken. Up until now, there was not only this debate about the two wings, there has also been in the court system in various countries a very high standard that has been put in place, a high evidentiary standard if you were going to act against a charitable organization. That is why in Germany there is now a case challenging the decision of the German government to freeze the assets of the Al-Aqsa Foundation which is a Hamas fundraiser.

Similarly, in the United Kingdom, they have in their charities commission the same standard that they feel they need to look through before they could act against, in this case, the Interpal organization. What we hope to do in the weeks and months ahead is to provide them additional information, and also now to get them to take a different look at this because they have admitted that the overall organization is indeed a terrorist organization. So that is a whole different perspective of looking at the challenge of Hamas.

I think it is also important to note that Hamas has in fact provided a lot of charitable services. There are concerns in Europe, in the Middle East, in places like Jordan, that Palestinians be provided some of these basic services and their needs met. So we do need to give very important attention to meeting these basic needs of Palestinians at the same time.

Maybe I will stop there and invite Mr. Aufhauser.

Mr. AUFHAUSER. On the question of Jordan specifically, Mr. Wayne and I coincidentally met with the Prime Minister of Jordan last week on Iraq matters and helped put together a trip during the first week of October to discuss those matters in Amman. We now have a new item for the agenda.

With respect to Europe, I do not have the patience of Job that my friend Tony has with respect to their failure to follow through on the designation of the fundraisers that we have now designated. Once they drop the sophistry that there was a distinction between the military and the political arm of Hamas, you no longer have that as an evidentiary burden to show that the money given goes to do violence rather than to build charities.

The short answer to Chairman Oxley's question is we should be going abroad, and I am confident we will, the State Department and/or Treasury Department, and urging our allies to do the principled thing which is now that they have crossed the rubicon in naming Hamas as a foreign terrorist organization, as a European Union matter, then all funding for that organization should be barred, and those who knowingly fund it should have their assets frozen. I cannot see any contrary argument.

Chairwoman KELLY. Thank you very much.

Ms. Maloney?

Mrs. MALONEY. I thank the Chairwoman for her consistent focus on this very important issue. She has chaired and initiated a num-

ber of briefings on it. I thank the panel very much for their appearance today and their hard work in working towards cutting off funding. It is one of the keys to stopping terrorism. Like any business, if you are out of money, you are out of work. I know that a number of dollars have been frozen worldwide and in America.

I would like to ask the FBI and Treasury, last year in a letter I sent to the State Department Assistant Secretary for Legislative Affairs Paul Kelly. He likewise wrote that the department has requested from the FBI and CIA any information that they may have regarding whether the families of any of the 19 hijackers who attacked the U.S. on September 11 have received funds from any charitable or other organization. I would like the members of the panel to address that question.

Also I would like to ask about the Al-Quds Intifada. On March 21, 2001 the Royal Embassy of Saudi Arabia posted a statement on its web site stating that the Saudi Government had given up to \$50 million to the organization. Can you confirm that the Al-Quds sent Saudi Government funds to the families of Palestinian martyrs, and what is the status of the Al-Quds today? I have a letter into former Secretary O'Neill on this, in a bipartisan with four other of my colleagues.

Lastly, I would directly like to follow up on Mr. Oxley's question. He was not able to address it to the FBI, so I would like to specifically ask the FBI if it is your opinion that Saudi Arabia is cooperating or is a model for other countries when it comes to money laundering and terrorist financing? Are they a model country when it comes to opening up their country to the investigation of terrorist attacks against Americans on Saudi soil? I especially would request the FBI to answer.

Thank you.

Mr. PISTOLE. Thank you, Congresswoman. Let me address the first question concerning the families of the 9-11 hijackers. Just to put it in context, as a result of the investigation conducted by the Terrorism Financing Section of the FBI concerning the 9-11 hijacking scheme, there was only about \$500,000 that was used in total for the 9-11 hijackers to carry out this scheme. That includes pilot training. That includes lodging, meals, everything they did in terms of travel, casing, flying first-class across the country, and doing all those things. So just in terms of context, it does not take a whole lot of money to run a successful terrorist campaign.

Mrs. MALONEY. But did their families receive any donations from charitable organizations?

Mr. PISTOLE. The FBI has no information that any family members of 9-11 hijackers received any money either from a government such as the Saudi Government, where 15 of the 19 hijackers were from, of course, or from an NGO or other charitable organization. That is in response to your first question.

On the second question, I will have to defer to my colleague if they have information about the \$50 million in Al-Quds Intifada. I do not have that information.

The third issue, the Saudi cooperation, you asked whether we assess them as being a model country. I think again we need some context there, where they have come a long way in terms of cooperation. I would not describe what they have or what the rela-

tionship has been as a model of cooperation, but there are a number of ongoing initiatives which give us cautious optimism that we are moving in the right direction. That is, that we have FBI agents on-ground in Saudi right now, in Riyadh, working with Mabahith, the Saudi interior service, to address both identifying and locating al Qaeda members in the kingdom, and also identifying and targeting, whether it is NGOs or private citizens, who may be supporting al Qaeda either wittingly or unwittingly. So those things are ongoing.

Additionally, for the first time the FBI is providing terrorism financing training to Mabahith. That is ongoing right now. We have a team in-country right now that is training 20 Mabahith officers specifically focusing on terrorism financing. So those are all positive steps that we see that the Saudis are opening to the initiatives that we presented. They have come up with some initiatives. As was mentioned earlier, they are shedding their own blood now, as recently as yesterday, with a Mabahith officer being killed in the attempted arrest of al-Rimi who was killed in a shootout.

So there are a number of tangible measurable things that we see as positive signs.

Mrs. MALONEY. And the Al-Quds question? Treasury?

Mr. AUFHAUSER. Answer one is I have to refer to that letter and get back to you on it. But answer two, more generally, we have engaged in Riyadh in meetings with SAMA, by way of example, the Saudi Arabian Monetary Authority, to get assurances that certain accounts established to forward charitable monies to what is alleged to be victims of the Intifada, that there is an accounting of that money.

In particular, there is an account called Account 98, and we have been engaged in dialogue now for 6 months to make sure that at least the shareholders of the banks where Account 98s were compelled to be established by royal edict, to assure that those shareholders have an opportunity to make certain themselves, exercising due diligence, that the money is not going as blood money.

Mrs. MALONEY. But is the Al-Quds still functioning?

Mr. AUFHAUSER. Again, on that I have to get back to you. I do not know the answer to whether Al-Quds is still functioning. I do know the Account 98s are still alive and well. Whether they are one and the same, I cannot answer you today.

Chairwoman KELLY. I am sorry but the gentlelady's time is up.

Mrs. MALONEY. Thank you.

Chairwoman KELLY. If you have a question, you are certainly welcome to submit it in writing.

Mrs. MALONEY. I will. I lost, as the gentlelady knows, 500 constituents on 9-11 and my constituents are very concerned about this whole area, so I will be writing to you. Again, I appreciate the gentlelady for holding this hearing and for her persistence on this extremely important issue.

Chairwoman KELLY. We lost a great number of people in my district as well in New York.

Mr. SHADEGG?

Mr. SHADEGG. Thank you, Madam Chairwoman. I echo the comments of the previous speaker. I commend you for holding this hearing on this important topic. I also commend all the members

of our panel for spending time with us and for their efforts to track down these assets and to try to cut off the funding of Hamas so that it does not continue to do what it has done in terms of destabilizing the area and causing death and carnage.

I want to focus on an issue that I have focused on before, and that is precisely what assets are going to be used for which purposes. Mr. Aufhauser, as you know, I am interested and concerned about the losses suffered by American citizens in the original invasion of Kuwait by Saddam Hussein. Your testimony refers to the fact that there are some \$6 billion that Saddam was able to hide in the Oil for Food Program. On page two, you make a reference to that.

It is my understanding from your testimony that we have recovered perhaps \$500 million of that \$6 billion. I am interested in what efforts we are making to recover the remainder of that money, but also specifically, and I will give you both questions so you can answer them and have time to answer them. In testimony before this committee in May of this year, you indicated that the claims of those Americans who suffered losses in the invasion of Kuwait needed to be dealt with by the new government of Iraq, the Iraqi Authority. And you made a reference specifically to using the wealth of the nation, specifically oil-generated wealth. I understand that oil-generated wealth is part of the wealth of the nation, but it seems to me that \$6 billion in hidden oil-generated wealth is also a part of the wealth of the nation.

The question I would have of you is, recognizing that most of that \$6 billion is going to go, if it is recovered, to rebuilding the country, whether or not the Treasury Department or the Administration would be willing to support the allocation of some of those funds to the payment of claims by people who suffered as a result of the Iraqi invasion of Kuwait.

Mr. AUFHAUSER. Thank you, congressman. The \$6 billion is a gross figure. I do not for a minute believe that it is still all there. I believe a lot of it was misspent. I believe a lot of it we will never find.

Mr. SHADEGG. But you believe some is hidden outside the country.

Mr. AUFHAUSER. Yes. I think it is worth the candle to do the endeavor. As I said in my opening, which you might have missed, I have been disappointed at the alacrity with which it has been pursued. I certainly, in answer to one of your questions of efforts, have had the Treasury Department expend extraordinary efforts. We have gone abroad to more than 200 countries and been in contact in cables, face-to-face meetings. I have met with the Swiss. I have met with the French. I have met with Russian representatives. We have investigators on the ground in Jordan. We have investigators who have met with me in Switzerland to discuss the matter with Swiss authorities. So we are pursuing it. A great deal of energy is being devoted to it.

What we lack is access to the mountain of records that are in Baghdad today, and the very, very important witnesses that are in Baghdad. By the way, the most important witnesses in these kind of forensic examinations is not the boss who is detained because he was a name on a deck of cards. It is his secretary who is sitting

in an apartment right now in Baghdad and no one is asking her the right questions.

With respect to whatever money, how will it be applied, I have to give you my frank answer. The money belongs to Iraq. Treasury does not have the power to allocate that money. I presume that they will make the allocation in terms of the security interests of the country and its citizens first. Unfortunately, our U.S. citizens will be creditors of the nation just like many citizens are around the world today. I have to be that frank.

Mr. SHADEGG. I appreciate that. It is a perfect transition to my question for Mr. Wayne. Mr. Wayne, given that the Oil for Food Program is now not functioning and not producing money, and that that was the source of money for the U.N.C.C. process, what efforts is the Administration making to fund the payment of claims by U.S. citizens who have substantial unpaid claims arising out of the invasion of Kuwait by Saddam Hussein?

Mr. WAYNE. I believe, Congressman, if I have it right, that in the existing U.N. Security Council resolution, there is a provision that some of the funds going into the DFI, Development Fund for Iraq, will be reserved to deal with the compensation claims, because that U.N. process, the U.N. Consultation Commission, still exists and still has a mandate to work through those claims. I think you know the facts and figures enough from the last hearing. Though I understand things got lost on the way and I am very sorry for that, we did promptly respond, it just did not get to you, I gather.

Mr. SHADEGG. I received the answer. The problem is that the written answers do not solve the problem.

Mr. WAYNE. No.

Mr. SHADEGG. Part one of the question is, the U.N.C.C. is not currently paying those claims and it is not completely clear that there are adequate funds to pay the outstanding claims. My question of you is, is the State Department looking at that issue, and how do we go about assuring that there are adequate funds to pay those claims?

Mr. WAYNE. We are looking at that issue. I do not have an honest answer for you as to how do we assure that all claims will be met, but we are dedicated to continuing to work on this process. I think I can safely say that there has been no government more dedicated to assuring that U.S. claimants have their claims fairly judged and looked at. We have more work to do on that and we will continue to work with you very closely in this process.

Mr. SHADEGG. I appreciate your candor. Thank you.

I yield back.

Chairwoman KELLY. Thank you.

Mr. Shadegg, in May Mr. Aufhauser and Mr. Wayne I believe indicated that the responsibility for approaching the secretary sitting in the apartment in Baghdad is in fact the responsibility of the Department of Defense. If you would like, we can direct that question to the Department of Defense. Would you like us to do that?

Mr. SHADEGG. It seems to me that Mr. Aufhauser's testimony certainly paints the picture that we ought to be aggressively going after these resources, and if it is the Department of Defense that should be interviewing those people, I would certainly support pressuring them to do that. I know they have lots to do, and I get

some assurance out of Mr. Aufhauser's acknowledgment that there is still hope and that we are still pursuing.

I have some concern that he says we are not aggressively interviewing those people, but there is a lot on our table in Iraq and I can understand that. I certainly just hope that over time we do pursue those people and find them and question them, and hopefully track down whatever assets or resources we can.

Chairwoman KELLY. Would you like this committee to direct the written question to the Department of Defense?

Mr. SHADEGG. Yes, Madam Chairwoman, I would appreciate that.

Chairwoman KELLY. With unanimous consent, we will do it.

Mr. Inslee?

Mr. INSLEE. Thank you.

Mr. Aufhauser, you had a statement in your opening statement that I found pretty astounding. I want to ask you about it. You related the known fact that tyrant Saddam Hussein abused the Oil for Food Program and through graft and various means siphoned money off it. I think that is pretty well accepted. You then went on, this is on page two of your testimony, you said that "money and those credits purchased the goods and services that kept Iraq a threat against all reason and international law. That is the cost of turning a blind eye to laundered funds. We all witnessed a second cost when the World Trade Center vanished before our eyes 2 years ago this month."

The reason that statement caught my attention is that after almost a year of the Administration implying that Iraq was directly associated with this heinous attack on us on September 11, the President a few days ago, as I understood it, came out and flatly said that he had no evidence that Iraq was directly connected to this attack on our nation on September 11. And yet you come before us today, and as I understand what you are telling us, you say that Saddam's abuse of the Food for Oil Program used that money to attack us on September 11.

Why, after the President of the United States, after implying for a year that Saddam was behind September 11, then coming out and saying he was not associated with September 11, you tell us today that the money for September 11 came from the Food for Oil Program.

Mr. AUFHAUSER. Congressman, with all respect, and maybe it is because of the language I used, that is not the intent and purpose, and that is not what I said. The intent and purpose was, as I stated in my oral statement, my experience at Treasury has demonstrated that there has been a laxity in the financial system that has caused great grievance on many accounts. One of those is the way that Saddam Hussein mocked the U.N. sanctions program and used it to buy embargoed goods, including the kind of parts necessary to keep his jets flying and his army armed. That is point one.

But point two was also, with no connection to Hussein's money, that the same laxity in the international financial system permitted money to be spirited across international borders that led to the disintegration of the World Trade Center. If it reads the way you say it reads, then I should be reproached. That is not my point.

I have no connection between the two of them. It is the principle I was trying to establish, which is that loose money laundering controls can lead to calamity in many ways.

Mr. INSLEE. So do you or your Department have any evidence that money from Iraq was used to finance the attack on this nation on September 11?

Mr. AUFHAUSER. No, sir. No, sir.

Mr. INSLEE. If that is true, why didn't you tell America that fact while we were debating the President's decision to go to war in Iraq? Why did you not tell Americans that there was no connection financially as far as you were aware of between Saddam Hussein and the attack on September 11?

Mr. AUFHAUSER. One, I was not asked. Two, it was not part of my agenda. And three, I do not think there was any implication to the contrary.

Mr. INSLEE. The President was implying this for about a year in at least a dozen speeches. Did you ever contact the White House and suggest that that was not in compliance with the facts as you knew them?

Mr. AUFHAUSER. I did not know facts to the contrary either. It was not part of my agenda.

Mr. INSLEE. Were you aware that we had a substantial debate in this nation about whether to go to a war in Iraq at the time?

Mr. AUFHAUSER. Of course I was.

Mr. INSLEE. And were you aware that you had information that would suggest whether or not Iraq was associated with this attack?

Mr. AUFHAUSER. Let's be clear. I have no unique information. I am a consumer of intelligence in law enforcement. There is not an asset in the Treasury Department today that is a developer of intelligence. So what I knew is as a consumer of information from the CIA or the FBI or the NSA.

Mr. INSLEE. Let me ask you, in your statement as well, you said something that I very much agree with. You said that "most of the capital we are attempting to freeze is beyond the reach of the United States. Acting unilaterally is often an empty gesture, an action without an effect. Therefore, we need our allies to join with us in a coordinated manner." I think probably we would all agree with that.

Do you think we are doing as good a job as we can on all our international policy, including what is going on in Iraq, in encouraging international cooperation rather than unilateral action?

Mr. AUFHAUSER. I do not want to be presumptive in judging the entire State Department and worldwide global diplomatic efforts of the Administration. I can speak for myself from my own parochial point of view. The whole effort of the Treasury Department has been multilateral since the beginning. We have recognized that this is a reckless act, this terrorist financing issue, to do it alone.

We have forged remarkable bonds, in part through IFIs, that is the World Bank, the IMF and in part through international organizations like APEC and the G-7 and the G-10, to get international standards that require people to pay attention to the kind of money that is spirited through their banking systems, with enormous effect. I am actually quite proud that we have been able to forge. More than 180 countries today have a new language. They have

new laws and the laws can be enforced against terrorist financing, both criminally and administratively. I think it is great feat and I think it is a great credit to the President.

Chairwoman KELLY. Mr. Inslee, your time is up.

Mr. INSLEE. Thank you. I will be back.

Chairwoman KELLY. Mr. Fossella?

Mr. FOSSELLA. Thank you.

Good afternoon, gentlemen and ladies. One of the issues that I don't know if it was brought out, I apologize if it was, is in the Treasury and FBI's testimony. It deals with tracking the money from the Federal Reserve. For example, money that was seized in Iraq flowed directly from the United States Federal Reserve.

One of the issues that came up in a conversation that I had recently with some folks back in New York, was as I understand it, the process works if we send \$100 million, for example, to another government, that government can in turn break that funding down in \$10 million increments and then distribute it to 10 primary banks.

Is this an issue in terms of being able to track the currency from start to finish? Some have suggested, for example, bar-coding the currency so that if ultimately our dollar or greenbacks are identified and discovered, narrowing the scope in terms of where it has been? Or is this just a bizarre question?

Mr. AUFHAUSER. No, you are right on. It is not a bizarre question. The Federal Reserve has very sophisticated resources devoted to assuring tracking. Frankly, I would like to respond to you more in a closed hearing about the manner and the means of doing so.

Mr. FOSSELLA. Fair enough. Okay.

Agent Pistole, in the first paragraph of the second page of your testimony, you mention that in the past several months, TFOS has capitalized on its capabilities by conducting real-time financial tracking of a terrorist cell, providing specific and identifiable information to a foreign intelligence agency, which resulted in prevention of four, as you mentioned earlier with Mr. Oxley, potential deadly attacks. Can you explain a little more clearly what real-time financial tracking consists of? And tell us how, if at all, Congress can provide you with better tools to track those financial assets?

Mr. PISTOLE. Thank you, Congressman. I can describe in general terms the tracking that goes on. It is through a collaborative relationship between the U.S. government and these particular case, the FBI and U.S. financial services businesses that have allowed us to access on a real-time basis information about, for example, just talking in general terms in an attempt to protect sources and methods for future use, but for example a wire transfer that a foreign intelligence service may have information about either through a human source or through technical surveillance in another country to say we believe there is going to be a wire transfer from one location to another, can you help us with that? The FBI through our liaison with those financial services companies has been able to do that at least four times since last April, which resulted in, according to the Foreign Intelligence Service, the prevention of terrorist acts abroad.

Chairwoman KELLY. Ms. Forman, have you comments you would like to add here?

Ms. FORMAN. I would like to add in regards to the tracing of funds from the Federal Reserve, we have had and we still have three deployments of BICE agents on the ground in Iraq, and we have worked with the Federal Reserve to track some of those funds. We have actually identified accounts overseas where those funds go to. Working with our 37 foreign attache offices, they are in the process of working with their foreign governments to see where the funds have gone from there.

Mr. FOSSELLA. I guess we will follow up at another time as to what degree that is sufficient or can it be improved and in what capacity. Okay. I appreciate that.

The key element that is not here is the private banking system as well, in terms of helping you and collaborating. I know a lot of folks are dedicating a lot of time on assuming responsibilities and costs, burdens. Is there anything you think can be provided as an incentive to the banking community, the financial services community, to make that relationship even better and stronger? The cornerstone of this is just an incentive to do a better job, not to say they are doing a bad job, but can it be done better, and if so what incentives can be put in place to achieve that?

Mr. PISTOLE. I, for one, would like to highlight the cooperation of the U.S. banking financial services community in working with us in specific examples which I mentioned, but in a number of other areas which we do not necessarily publicize, but which they do an excellent job across the board of working with us on a real-time basis, all the time while protecting the client's privacy and attendant issues. That relationship has especially developed since 9-11 and has allowed us to focus on the prevention of future terrorist acts. So I would like to compliment the industry on that.

Chairwoman KELLY. The gentleman's time is up.

Ms. Forman, were you going to respond to that?

Mr. FOSSELLA. Just if there was anything that can be done, any incentives to better or improve that relationship and the work that is being done.

Ms. FORMAN. The largest request we get is feedback, and typologies or investigations. We have a program now called Cornerstone which is exactly what we are going to do. We are going to have subject-matter experts in the various financial systems, money service businesses, traditional banking, that will work on a daily basis with the financial institutions to provide feedback, anomalies, track patterns and trends that we actually see on a real-time basis. So they know and they can help us do our job.

Mr. FOSSELLA. Thank you very much. Thank you folks.

Chairwoman KELLY. Thank you.

Mr. Ackerman?

Mr. ACKERMAN. I thank the Chair for focusing like a laser on this particular topic. It is much needed here.

There are several questions I would like to just lay out. But first, Mr. Aufhauser, I just want to say that I, for one, and I know many of us are sorry to see that you will be leaving your position. It is going to be a major loss losing talent such as yours. I wish you well in your future endeavors.

I was very impressed by the fact that you were a student of poetry. And perhaps somewhere in your studies you came across the

works of a Persian poet of the 11th century who went by the name of Omar Khayyam, part of the region which we are talking about right now, which is of course Iran. In a major powerful and poetic work that he did, he said "the moving finger writes, and having writ, moves on. Nor all your piety nor wit can lure it back to cancel half a line, nor all your tears erase a single word of it."

There is a lot to be learned from that, and the job that you and the others here have is to prevent those things happening that will cause our tears and lamentations to undo the things that have been done, but rather to not allow to be done the things that would be done by some who intend to cause of discomfort and great harm.

That being said, in your testimony you spend a good deal of time talking about Executive Order 13224 and the Patriot Act and all sorts of other executive orders going with that, stating that we basically have all of the tools that we need to exercise what we have to do against terrorists, terrorist organizations, financial institutions, et cetera.

The first question I would ask is, can't this be used against Syria to stop support for Hezbollah? And have we at all used it against Saudi banks, particularly those that do business in the United States, to freeze their assets for sending money to Hamas, in as much as we have all of that authority?

Further in your testimony, you state that no economic sanctions programs exist at the U.N. for Hamas. That would lead me to ask the question of Mr. Wayne, why? And why not impose this as a condition for the roadmap within the region? And Mr. Wayne, I agree with a lot of your testimony, but in it you said that Hamas's social services were filling a gap that the PA could not fill for lack of money. I believe that that is just not true. The PA has wasted millions and millions and millions of dollars through corruption and thievery and hiding it in different places and buying arms and paying off terrorists and things like that. What are we going to do to change that?

And finally, I would like to ask the entire panel, including Ms. Forman, what does one's credit score have to do with the likelihood of being a terrorist? Why has your agency insisted that it has the authority to ask credit bureaus for people's credit scores? Maybe Treasury can explain the connection of whether or not I pay my mortgage on time will get me on a plan early. And Jet Blue having sent to a Pentagon contractor personal information about 1.1 million people who fly their airline, and they then apologize for violating their own privacy rules. Maybe somebody could make those connections to me, because I am dumbfounded by them.

Thank you, Madam Chair.

Mr. Aufhauser? Indeed, we are sorry that you will be out of the House.

[Laughter.]

Mr. AUFHAUSER. I want to be careful about not talking about current operational issues in the area of terrorist financing. But I will represent to you that economic sanctions vis-a-vis Syria and its institutions remain and are a current high priority of the Administration. It was evidenced publicly in Secretary Powell's visit several months ago. It was followed up by other senior-level visits. It was followed up by ambassador meetings with me. It was followed up

by a mission of technical specialists that went in from Iraq sponsored by the Treasury Department. It remains a very current issue of focus of the national security community. So that is the answer to number one on Syria.

As for whether or not we propose or have any ambition to take action against financial institutions emanating out of Saudi Arabia, again I do not want to talk about specific targets, but I want to give you the assurance, and you have to take this as an article of faith, but I am telling you the absolute truth, no institution or person in the gulf is immune from our punitive action if we have the evidence to pursue them. Financial institutions are well on the radio screen, as are NGOs.

Some of the other questions about the U.N. and Hamas, I think I will turn to Mr. Wayne.

Mr. WAYNE. Thank you very much, Congressman, for your good questions. I think you pointed out something with which I very much agree. I would not contest that there has been money that has not been well spent, that has been wasted, that has been spent from Palestinian sources on things other than social and charitable services that really could have helped that. You are correct in that.

What I may be ineptly getting at is that there was a gap in providing social services, charitable activity caring for people. Hamas took advantage of that and has built up a favorable image in parts of the West Bank and Gaza because of what they have done there. It is in our interest very much to have charitable activities and social activities that are private groups.

Mr. ACKERMAN. We can stipulate to all of that. It was just a concern that the PA did not have the money. My point is that they did, but squandered it.

Mr. WAYNE. Yes. You have an excellent point.

Mr. ACKERMAN. Before my time is up, if somebody can just respond.

Chairwoman KELLY. Actually, Mr. Ackerman, your time is well up.

Mr. ACKERMAN. I think I have an orange light.

Chairwoman KELLY. No, you have a red light. You are 2 minutes over, actually.

Mr. ACKERMAN. I am sorry. Could we just have an answer? I am through with the question.

Chairwoman KELLY. If it can be a fast answer, a rapid answer, please.

Ms. FORMAN. If you are referring to the question on the credit rating, credit cards is a system, a system that can be abused, and bust-out schemes in particular are schemes where credit cards are taken to the max, and the funds may be used for illicit means. That is one of the reasons why the credit card reports and the ratings are utilized, as red flag indicators of potential wrongdoing. They are used as a law enforcement tool to determine whether violations may or may not be occurring.

Mr. ACKERMAN. I would suggest the Chair may want to at some future time pursue that particular issue of the privacy rights and what credit has to do with it, because I am not particularly satisfied with my understanding.

Chairwoman KELLY. I appreciate your question. As a matter of fact, we have just been sitting here conferring on follow-ups to this and that is one of the things we can include if you would like.

Mr. ACKERMAN. Thank you.

Chairwoman KELLY. I appreciate the candor of the panel today. Mr. Crowley?

Mr. CROWLEY. Thank you, Madam Chair. I appreciate this hearing as well. I think it is an important hearing and I want to thank the panelists for their testimony and discussion today.

It was 2 years ago that the President issued an Executive Order that gave the federal government the power to freeze bank accounts, and cut off the flow of funds from organizations that are suspected of terrorist ties. Since that evidence suggests that there is a different standard for American enforcement of this order when it concerns a listing of organizations that have links with high Saudi officials. I am going to piggyback a little bit on what Mr. Ackerman was talking about.

All the while, Mr. Aufhauser, you have described Saudi Arabia as the epicenter of terrorist financing. We know in fact that 50 percent of Hamas's current operating budget comes from the people in Saudi Arabia, a number that has not diminished since the attacks of September 11.

I understand that there was an attack in Saudi Arabia in May 2002, an attack on their own soil. That, in turn, brought them into joining forces with the United States in a joint task force to crack down on terrorist financing. My question is, why did it take this attack, a full 8 months after the attacks of September 11, to bring the Saudis into compliance with the joint task force in the United States and its fight against terrorism? And to get them to crack down on terrorist funding within Hamas? And if it took that long to get a supposed friend to join forces with us, how can we expect those who have less than better relations with this government to comply with this? What signs can we look for in terms of the Saudis to show they are in compliance and actually are cracking down on Hamas?

As it pertains to Lebanon and their support of terrorism as well, we saw what happened to the Lebanese central bank, the head, when they were going to reveal accounts of six Hamas leaders. The Lebanese Government, its president, rebuked the chief of the bank for doing so. We know the support of the Lebanese for Hezbollah. They continue support for that terrorist organization. We also know that Syria is pulling the strings in that country. What are we doing to bring them into compliance as well?

Mr. PISTOLE. Congressman, I would like to address the first part, if I could, concerning Saudi cooperation since the May 12 attacks in Riyadh. That night, there were three nearly simultaneous attacks which killed 34 people, including the suicide bombers and a couple of Americans also. I believe that those attacks were a wake-up call for the Saudi government that al Qaeda was willing to attack Saudi interests on Saudi soil.

Since that time, there have been additional raids and seizures of imminent plans that al Qaeda was planning to attack other government installations or other individuals in the kingdom. What has been forged since that time was the development of a relationship

which existed prior to May 12, but which has been given a new impetus and new initiative because of Saudis being killed, and a new approach by al Qaeda where they were willing to kill fellow Saudi citizens in an effort to attack western interests.

Mr. CROWLEY. Are you suggesting that because al Qaeda was now focusing on Saudis that that spurred them to a greater interest to joining forces with the United States in terms of the war against terrorism, unlike some of our other allies, Great Britain for instance, who did not need that to necessarily happen in order to do so.

Mr. PISTOLE. It is a very complex issue in terms of just law enforcement intelligence, not even involving diplomacy or any of those issues. But yes, from that perspective, where the impetus to be allies in a collaborative effort to attack al Qaeda in the kingdom has been significant in several respects, in terms of having a fusion cell of law enforcement and intelligence community members working with the Mabath in Riyadh to locate, identify and locate, and arrest if possible al Qaeda there in the kingdom.

The joint financial task force that has been referred to earlier is also significant because for the first time we are working on scene with Saudi authorities to assess how NGOs and fundraisers in Saudi and around the world may be using money that could be funneled to al Qaeda or other terrorist groups such as Hamas to further terrorist activities. The training that we are providing right now is unprecedented because that has not been a focus previously, at least that we have been aware of.

So there has been a transparency that we have seen since May 12 that we had not experienced primarily for the reasons you articulated.

Mr. WAYNE. Congressman, if I could add to that. I think we all agree that May 12 resulted in a quantum change, but it is not that there was no cooperation going on ahead of that in all the different channels, law enforcement, intelligence, diplomatic. As we noted earlier, the Saudis did join us in designating one very important al Qaeda financier and two branches of a Saudi charity overseas, al-Haramain, at the United Nations. Those were very public acts together.

We had a very active senior-level dialogue that began well before this period of the attacks in May. But clearly, the attacks in May were a wake-up call and very much intensified much of the cooperation that was underway. Just one example of what had already been going on, the Saudi Arabian Monetary Authority had ready to issue in May a whole new set of regulations for handling donations to charities that they had been working on up until that point. Those are now being put into practice. They are being put into law. They are being reviewed, as Mr. Aufhauser noted earlier, by outside experts as well as Saudi experts.

What May did was really speed this process up significantly. We do not want to give the impression that we think that the Saudis are where they should be. There is a lot of work still out there to do, but they have shifted gears significantly. They are headed in the right direction and we are committed to working with them, but we very much will judge them on the continuing cooperation,

the continuing performance, the implementation of the good things that are underway now.

Chairwoman KELLY. Thank you very much, Mr. Crowley.

The Chair notes that some members may have additional questions for the panel and they may wish to submit them in writing. So without objection, the hearing record will remain open for 30 days for members to submit written questions to those witnesses and to place their responses, as well as other pertinent information, in the hearing record.

Mr. Aufhauser, again we want to thank you so much for your service to this country. I appreciate your willingness to appear here today, as the committee appreciates the willingness of all of you, Mr. Wayne, Mr. Pistole, and Ms. Forman. You have really given us a lot to think about. Stay tuned. I think we will probably have at least one, if not two more hearings. So thank you so much for your help.

The panel is excused with the committee's great appreciation for your time.

I want to thank all members and staff for their assistance in making the hearing possible.

This hearing is now adjourned.

[Whereupon, at 12:36 p.m., the subcommittee was adjourned.]

A P P E N D I X

September 24, 2003

Opening Statement

Chairman Michael G. Oxley
Committee on Financial Services
Subcommittee on Oversight and Investigations**"The Hamas Asset Freeze and Other Government Efforts
to Stop Terrorist Financing"****September 24, 2003**

I would like to thank Chairwoman Kelly of the Subcommittee for calling this hearing to examine this serious issue. We hear every day about the slaughter of civilians, and about our men and women in harm's way. I'm sure I speak for all of the members when I say that every news story strengthens our resolve to win the war against terror.

We have just passed the second anniversary of the September 11 attack on our nation. During the ensuing two years, we have continued to witness the murder of civilians by terrorist groups worldwide. An important part of bringing an end to this slaughter is disrupting the money flow to terrorist groups such as Hamas. One important measure in our arsenal is our ability to identify, disrupt and dismantle these organizations of terror by attacking the financial networks and systems that support them. The addition by the Treasury Department of the five Hamas-related charities and six senior Hamas leaders to the Specially Designated Global Terrorist list is proof of our continuing commitment to this struggle.

Earlier this year, Chairwoman Kelly held an enlightening hearing on the status of terrorist financing investigations, where it was made clear that the Administration is using the USA Patriot Act to deal with those international institutions that continue to be the financial conduit for these international murderers. The Financial Services Committee was proud to contribute the anti-money laundering title to the USA Patriot Act.

Before we get to the testimony I would like to express my most sincere appreciation to David Aufhauser for his service and dedication to the nation in his role as Treasury General Counsel. Under your leadership, the United States has made substantial progress in persuading other nations to join us in the global war on terrorism and in disrupting the flow of money in its support. Your efforts in the execution of the Patriot Act have made a noticeable difference in this war. I understand today we will learn how that cooperative effort has brought about welcome results worldwide and what accomplishments we can expect in the future.

I also look forward to hearing from the State and Justice Departments about their successes in the financial war on terrorism. As a former member of the Bureau, I know that many of its recent successes must remain nonpublic, so that our channels both domestic and foreign are not exposed.

Money is fuel for terror, and stopping the money can only benefit our cause. We know that winning this war will require the cooperative effort of all of our agencies, departments and bureaus and from our allies and the financial institutions that function in the world economy.

Again, Madame Chairwoman, I commend you for holding this hearing.

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**Statement of Chairwoman Sue Kelly
Subcommittee on Oversight and Investigations
“The Hamas Asset Freeze and
Other Government Efforts to Stop Terrorist Financing”
September 24, 2003**

This morning we will continue the Subcommittee's investigation in to terrorist financing. We last met in March to review a number of important enforcement cases against terrorist groups threatening our way of life. Today, we will review recent developments in the ongoing war against terrorist groups, focusing on Hamas – the Palestinian organization responsible for many heinous acts of terror.

Hamas has threatened the State of Israel and taken credit for atrocious attacks that have killed hundreds of innocent civilians – including Americans and other individuals from countries around the world. Equally disturbing, the group has been able to finance this terror through complex and sophisticated schemes that include significant assistance from international charities. People reaching deep in to their hearts and pockets to ease the suffering of individuals less fortunate should know they are helping their fellow citizens, and not contributing to the massacre of innocent men, women and children. It's time to stop these intolerable actions, and today we will explore the landscape of issues surrounding these efforts.

The United States government has set an example for the world by clamping down on these groups and seizing their financial lifeblood with the help of new tough federal laws, including the USA Patriot Act. Shortly after September 11, 2001, law enforcement took down the Holy Land Foundation – a leading Hamas support group. Key officials from Holy Land and an associated computer company have since been indicted for their support of Hamas activities and are scheduled to go on trial next year. This is a significant victory for law enforcement, but Hamas continues to lurk in the international community, and we must not rest in our pursuit of terrorists and their financing. We must be resilient in our quest to protect the American people by tracking down and draining Hamas funding.

On August 22, the President displayed steadfast leadership with an announcement to freeze the assets of key Hamas leaders and specific international charities supporting the group. This decision demonstrates the Administration's commitment to the war against terror, and it sends a clear message to the world that organizations linked to this heinous group will not be tolerated.

To drain the funding of terrorists, there must be a coordinated effort of countries throughout the world. America expects nothing less than the highest level of cooperation from financial institutions, international entities and foreign governments across the globe.

Today, we will hear testimony from the Treasury and State Departments to learn how other countries are supporting us in this important step to rid the world of terror. I would like to commend the Administration for appearing here today to shed some light on these issues. The American people, families of victims and innocent civilians need, and deserve, to know whether countries that have made big promises to stop terrorists are backing up their promises with action.

I am pleased that the European Union (EU) has followed President Bush's leadership and recently agreed to freeze the assets of the political wing of Hamas – a major victory for the freedom and security of citizens across the world. But the world has yet to hear a solid declaration of support from the EU for stopping deceitful charities, and they must at least match the President for any freeze on Hamas to be effective. I'm hopeful that the international community will continue to work with us on these efforts to track down illicit money, and help save lives.

To date, it is promising that our government has experienced many victories with our international partners in the war on terrorist financing. The United States has seized or frozen nearly \$200 million in terrorist-related assets and designated 315 individuals and organizations as terrorists, or part of terrorist support networks. These successes have led Steven Emerson – a premier expert on the terrorist groups who has testified before this Subcommittee – to assert that, quote, "the United States, U.S. law enforcement, the Department of Justice and other agencies have done a phenomenal job" in fighting terrorism.

I believe these and other major victories are attributable to the outstanding leadership shown by our President and this Administration, including departments represented here today. I would specifically like to highlight the work of one of our witnesses, David Aufhauser, the General Counsel of the Treasury Department. Mr. Aufhauser is the chair of the U.S. government's coordinating committee on terrorism financing and a leader in implementing the USA Patriot Act. Many Americans are unaware of the countless hours of policy discussions here, and negotiations with foreign governments overseas, that Mr. Aufhauser has led to jumpstart the global war on terrorism and protect us from future attacks. Mr. Aufhauser is leaving the Treasury Department, and on behalf of the Subcommittee, sir, I thank you for your outstanding service to your country. We wish you all the best. And I look forward to hearing your views on status of the war and any additional measures we should consider.

Joining Mr. Aufhauser are important witnesses from the State Department, the Department of Homeland Security and the FBI to discuss interagency coordination, important investigations, and their cooperation with financial institutions that have led to these successes.

The people in the country whom we are charged to protect do not care about bureaucratic ups or downs. They care about results, about stopping the evil ones from committing acts of mass murder. Thus far, the agencies in front of us today have been successful in doing that.

I would like to thank you for your appearance here today and look forward to hearing about your efforts to protect the American people.

OPENING STATEMENT OF
LUIS V. GUTIERREZ
OVERSIGHT & INVESTIGATIONS
SUBCOMMITTEE HEARING
“THE HAMAS ASSET FREEZE AND OTHER GOVERNMENT
EFFORTS TO STOP TERRORIST FINANCING”
SEPTEMBER 24, 2003

Good morning. Thank you, Chairwoman Kelly, for holding this important and timely hearing.

I look forward to hearing testimony from today's witnesses on the instrumental role they play in the fight against international money laundering and terrorist financing.

We all know that terrorism is a global problem and that our fight against terrorist financing needs to be a broad-based effort that extends beyond our borders.

Enhancing international cooperation between local agencies and countries around the world is essential to eliminating terrorist networks and to winning the fight against international money laundering practices.

I hope to hear from the agencies today about their success stories, as well as the obstacles that currently hinder their ability to permanently block and break the conduits of terrorist financing around the globe, including what they are doing to enhance cooperation with countries that pose challenges to their success in tracking down and stopping terrorist funding.

I also would like to gain more information on the extent of international cooperation between their agencies and their counterparts abroad. Particularly, I'd like to hear from the witnesses regarding their problems and efforts to block Hamas assets coming from the Middle East, since an overwhelming portion of funding for Hamas comes from this region.

Finally, I would like to commend Treasury for their recently released rules on Section 326 of the Patriot Act and for their decision to keep the rules unchanged.

The rules require a financial institution to contain statutorily prescribed procedures that will further safeguard our banking system from terrorist financing and, at the same time, not hinder the ability of unbanked individuals to access our financial institutions.

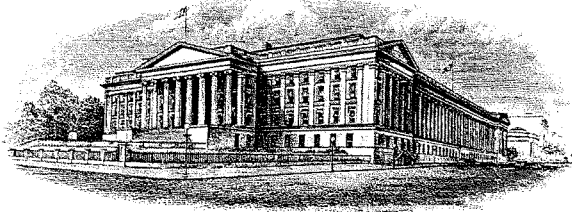
Allowing financial institutions to accept the use of the Matricula Consular represents an important step in reducing the number of unbanked individuals in our country, as well as providing security and stability to those individuals who can now put their money safely in a

traditional financial institution.

For financial institutions, acceptance of the Matrícula Consular helps tap new customers who could serve as a vital base of business growth.

Thank you again, Madame Chair, for holding this timely hearing.

I look forward to the testimonies.



United States Department of the Treasury

**Written Testimony of
David D. Aufhauser, General Counsel**

**Before the House Financial Services Committee
Subcommittee on Oversight and Investigations**

September 24, 2003 – 10:00 AM

The United States House of Representatives

Chairman Kelly, Congressman Gutierrez and distinguished members of this Committee, thank you for inviting me to testify today about the United States Government's efforts to address the financing of terror. Let me tell you why we believe it is so important.

For more than a decade – after its misadventure into Kuwait in August of 1990 – Iraq has been an international pariah. More particularly, it has been the subject of the most comprehensive and far-reaching economic sanctions program ever imposed by the United Nations. The Oil for Food Program, later added to the sanctions program, permitted barter trading of Iraqi oil in exchange for humanitarian goods and services, all subject to UN monitoring and control.

The good news is that tens of billions of dollars flowed through the program between 1996 and today, providing food, medicine, shelter and necessities of life for the Iraqi people. It

was one of the rare programs that well served both a moral imperative and the most fundamental physical needs of people for whom freedom is a stranger.

The bad news is that the program was viewed by the Iraqi regime as an invitation for graft, corruption and sanctions busting. And they made it their holiday. Within the OFF program, they skimmed, they demanded kickbacks, they bought brokers, they created false front companies and they banked the money abroad in cash, or in accounts for product credit. They also began to deal in oil – in an open and notorious fashion – outside of the UN sanctioned program. The smuggled oil produced rivers of money and credit – a conservative GAO estimate is \$6.0 billion in a four year period alone – that were banked abroad.

That money – and those credits – purchased the goods and services that kept Iraq a threat against all reason and international law. That is the cost of turning a blind eye to laundered funds. We all witnessed a second cost when the World Trade Center vanished before our eyes two years ago this month.

I was in Cambridge, England on September 11th attending an international conference on money laundering. The conference was populated by Attorneys General, Chief Justices, Ministers of Police, and even General Counsels. It had the trappings of a sober and serious affair, but in truth, there was a lot of self-congratulation. The law enforcement community had been on the trail of money laundering for more than a decade, and it had much to crow about. Elaborate computer screens, predictive models, profiles of conduct, capture and indictment of persons moving or hiding dirty money, evidenced that we were gaining a lead on a tough issue.

The assaults on New York and Washington silenced the gathering. It was not just the awfulness of the video replaying its unspeakable carnage. It was the realization that we – the professionals charged with the responsibility of policing the international financial system – had

been looking at the world through the wrong end of the telescope. Money had been spirited around the globe, by means and measures and in denominations that mocked detection. The more serious threat to our well being was now clean money intended to kill, not dirty money looking for a place of hiding.

Shortly after the September 11th attacks, President Bush gave those of us who deal with these issues clear orders. He told us to starve the terrorists of funding. Since that mandate over two years ago, the United States has waged a “war” against global terrorism. But this “war” is profoundly uncommon. There is no known sovereign; no uniformed army; no hill to take; no target that is seemingly out of bounds. Indeed, terrorists obscenely place a premium upon the death of innocents. It is shadow warfare, and the primary source of the stealth and mobility necessary to wage the war is money. Much of the intelligence of war is, in fact, suspect – the product of treachery, deceit, custodial interrogation, bribery and encrypted talk. But financial audit trails do not lie. They are literally the diaries of terror and they reveal the secrets necessary to stem tithes intended to underwrite acts of terror.

Money leaves a signature, an audit trail, which once discovered might well prove invaluable in the identification and capture of terrorists. Stopping the flow of money to terrorists may also be one of the very best ways we have to stopping terror altogether. That is a dramatic statement, but it is not possible to overstate the importance of the campaign against terrorist financing. We believe that if you stop the money, you go a long way to stop the killing.

That being said, it is unwise to understate the difficulty of this endeavor. Our economies are deliberately open and porous. The ways to game restrictions on the flow of capital are nearly infinite. Moreover, the challenge is worldwide in scope. The overwhelming bulk of the assets we seek to freeze; the cash flow that we hope to strangle; and the records we aspire to exploit are

beyond the oceans that surround us here in North America. To act alone in this endeavor would justly invite critique, and be ultimately ineffective.

In the United States, our program to wage this war includes the following:

- i. An Executive Order (Executive Order 13224) using the powers in the International Emergency Economic Powers Act that raises the standards of conduct and due diligence of financial intermediaries, and explicitly targets underwriters of terror for the freezing of their assets;
- ii. UN Security Council resolutions that internationalize certain asset freezes and mandate the criminalization of terrorist financing;
- iii. More scrutiny at the gateway to U.S. financial markets as provided by the USA PATRIOT Act;
- iv. Law enforcement criminal investigations and other actions aimed at terrorists and their financiers;
- v. Extensive diplomatic efforts, including the engagement of central bankers and finance ministries, to champion the need and wisdom for international vigilance against terrorist financing;
- vi. Outreach to the private sector for assistance in the identification, location and apprehension of terrorists and their bankers; and,
- vii. Bilateral and multilateral efforts to build laws and systems that will help prevent terrorists from gaming the system in developing countries around the globe, and then developing programs to train those countries in how to administer those laws.

Perhaps the most visible tactic of our comprehensive strategy has been the public designation of terrorists and their support network coupled with the freezing of their assets.

Public designation of terrorists, terrorist supporters and facilitators, and blocking their abilities to receive and move funds through the world's financial system has been and is a crucial component in the fight against terrorism. The Executive Order imposing economic sanctions under the International Emergency Economic Powers Act permits the public designation of not only terrorists and terrorist organizations, but also supporters, facilitators and underwriters of terror as well. Once designated, this order freezes the assets within U.S. jurisdiction of the designee. Action under this order is not "criminal" and does not require proof beyond a reasonable doubt. Currently, 321 individuals and entities are publicly designated as terrorists or terrorist supporters by the United States, and since September 11th, over \$136.8 million dollars have been frozen around the world.

However, only a small measure of success in the campaign is counted in the dollars of frozen accounts. The larger balance is found in the wariness, caution, and apprehension of donors; in the renunciation of any immunity for fiduciaries and financial intermediaries who seek refuge in notions of benign neglect and discretion, rather than vigilance; in pipelines that have gone dry; in the flight to old ways of value transfer such as the use of cash couriers and the ability to focus our resources on those avenues of last resort; and, in the gnawing awareness on the part of those who bank terror that the symmetry of borderless war means that there is no place to hide the capital that underwrites terror.

Notwithstanding the power of this tool, it is important to remember that it is only powerful to the extent we can pull the rest of the world with us in identifying and freezing the assets of identified terrorists and their supporters. Most of the capital we are attempting to freeze is beyond the reach of the United States. Acting unilaterally is often an empty gesture; an action without an effect. Therefore, we need our allies to join with us in a coordinated manner. This is

no easy task. This is the task that occupies much of our time on the financial front of the war against terrorism. The most critical aspect of this task is the ability to provide sufficient actionable information – information that is often thin and encumbered by sensitivity. The predicate for everything we do is actionable intelligence. Without actionable intelligence, it is impossible to fight this war.

Organization of the Effort

Shortly after the attacks of September 11th, the National Security Council established a Policy Coordinating Committee on Terrorist Financing. The purpose of the committee is to (i) recommend strategic policy direction to the National Security Council on issues relating to terrorist financing; (ii) vet and approve proposed public action against targeted terrorists and terrorist financiers; and, (iii) coordinate the United States efforts on issues relating to terrorist financing. I have chaired the committee since October 2001. We have purposefully kept the process flexible, informal, collaborative and iterative. It is a process that has worked well to vet and coordinate proposed action on the financial front of the war.

HAMAS

The focus of this hearing is the terrorist organization HAMAS, and whether our actions to interdict the funds flowing to HAMAS have had any real world effect. The answer is yes, but it is a qualified yes. As stated earlier, many of our actions – particularly actions involving public designation and freezing of assets – have dramatic impact only when we can convince the rest of the world to act with us. It has been an uphill road with HAMAS.

HAMAS was formed in 1987 with a goal of establishing an Islamic Palestinian state in place of Israel. HAMAS' strength is in Gaza and the West Bank. HAMAS relies on broad popular appeal and it is an integral part of the Palestinian political and social landscape.

HAMAS has established networks of mosques, schools, and relief organizations that are highly visible and widely seen by many Palestinians as more effective than services provided by the Palestinian Authority. HAMAS is loosely structured, with some elements working clandestinely and others working openly through mosques and social service institutions to recruit members, raise money, organize activities, and distribute propaganda. It is this dichotomy that has created one of the principal challenges with this organization.

Unlike action against al-Qa'ida, action against HAMAS does not enjoy the same support around the globe. For example, an al-Qa'ida related UN economic sanctions program, which mandates action by all members, has been an extremely valuable tool in getting the world to act in concert against al-Qa'ida. No economic sanctions program exists at the UN for HAMAS. Countries in Europe and the Persian Gulf – two principal areas that supply funds to HAMAS – have been slow to support action against the entire organization, if at all. In fact, some sources estimate that as much as half of HAMAS' income is derived from money raised in the Persian Gulf, including the Kingdom of Saudi Arabia – notwithstanding a May 2002 decree by Crown Prince Abdullah that ceased official Saudi support for the group.

The United States designated the entire HAMAS organization as a foreign terrorist organization in 1995 and we have acted or are acting against HAMAS fundraisers identified and located here in the United States. A principal example of our action is our designation of the Holy Land Foundation for Relief and Development, a Texas based NGO, in December 2001. This designation was challenged in Federal court and has been upheld. The Holy Land Foundation no longer operates. Additionally, our colleagues from the FBI have a number of on-going investigations of other individuals and organizations linked to HAMAS. We are working

side-by-side with the FBI to ensure that those individuals and organizations will be addressed and the funding that is occurring will be stopped.

We have also taken action against HAMAS outside of the United States. On August 22nd, we announced the freezing of four European-based HAMAS fundraisers and one HAMAS fundraiser based in Lebanon: the Comite de Bienfaisance et de Secours aux Palestiniens (CBSP), the Association de Secours Palestinien (ASP), Interpal, the Palestinian Association in Austria (PVOE) and the Sanabil Association for Relief and Development. We announced the public designation of six top HAMAS leaders, and earlier this year we designated the Al-Aqsa Foundation – another European-based HAMAS fundraiser. Of the 321 persons and entities designated to date, 16 are HAMAS related entities. These designations have resulted in the freezing of \$24.7 million dollars around the world.

The rest of the world, particularly Europe (until recently) and countries in the Persian Gulf, view the political/charitable wing of HAMAS differently from its so-called military wing. In our view this is pure sophistry. We have advocated forcefully throughout the world that this distorted view of HAMAS should end. On this front, we have some good news. After nearly constant diplomatic pressure from the United States, on September 12th the European Union, having previously only designated the military wing of HAMAS, designated the entire organization. The European Union's recent action is welcome, if late in coming. A large portion of HAMAS' fundraising has come from Europe and we think the EU's designation of the entire organization will help change that dynamic. Despite the EU's welcome action, the political questions surrounding the Palestinian people coupled with the political and charitable work HAMAS undertakes make it hard to convince other countries around the world – especially in the Persian Gulf – to cease supporting HAMAS.

We think it is critical that governments move now to stop the flow of funds to HAMAS, a terrorist organization that has the conceit and audacity to proclaim with pride that it sends suicide bombers onto buses and into public plazas to kill innocents with the aim of destroying any chance for progress toward peace between the Israelis and Palestinians. Funds flowing to HAMAS fuel this terror. Again, we think if you stop the money, you go a long way toward stopping the terror. No matter how terrible the plight of the Palestinian people, there can be no justification for the killing of innocents. In our view, toleration of such terror by anyone is nothing short of complicity.

**TESTIMONY
OF
MARCY M. FORMAN
DEPUTY ASSISTANT DIRECTOR
FINANCIAL INVESTIGATIONS DIVISION
BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY**

**BEFORE THE
HOUSE COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

SEPTEMBER 24, 2003

I. Introduction

Good morning, Chairwoman Kelly and distinguished Members of the Subcommittee. It is a privilege to appear before you to discuss the ongoing accomplishments of the Bureau of Immigration and Customs Enforcement (BICE) Financial Investigations Division. I would like to begin by commending Congress for its decisive and immediate enactment of the USA PATRIOT Act, enabling law enforcement to more effectively investigate money laundering activities and protect the financial systems of this Nation.

The role of the BICE Financial Investigations Division is to defend the stability and strength of America's financial system...a system that is vulnerable to abuse by various criminal threats. BICE Special Agents apply their expertise to monitoring financial systems for vulnerabilities and investigate the exploitation of these vulnerabilities. BICE defends these systems through utilization of investigative expertise and application of a systems based approach. The authorities granted by Congress have allowed BICE to aggressively analyze, monitor, and patrol cross-border financial activities and enforce America's money

laundering and banking laws. BICE will continue to enforce these laws and work closely with our law enforcement counterparts to effectively preserve the integrity of the financial systems and mechanisms that support our economy and promote legitimate international business.

II. The BICE Financial Investigations Division

The BICE Financial Investigations Division has continuously evolved and matched its investigative priorities with the critical concerns of this Nation. The BICE Financial Investigations Division is designed to identify vulnerabilities in our Nation's financial systems through which criminals launder their illicit proceeds. In some cases, such as the Black Market Peso Exchange, the system itself is corrupt. In other cases, it is the criminal and criminal organizations that exploit the vulnerabilities of legitimate systems. Although these investigations historically involved money laundering associated with narcotics smuggling and distribution, BICE has expanded its arena of financial investigations to include violations involving terrorist financing, illegal money service businesses, bulk cash smuggling, non-narcotic money laundering, and cyber crimes.

In response to the events of September 11, 2001, BICE has redirected its expertise to better identify financial systems that are being exploited by criminal or terrorist groups. From October 1, 2001, through June 28, 2003, BICE financial investigations resulted in 203 arrests, 111 indictments, 67 convictions, and the seizure of approximately \$33 million. The successful results of this focused effort are attributable to the experience and expertise of BICE Special Agents. BICE will continue to enhance its financial expertise through investigations that focus

not only on the exploitation of financial systems, but the laundering of proceeds of drug smuggling, fraud, failure to report transactions, unlicensed money service businesses, and bulk currency smuggling.

I would like to take a moment to briefly outline a few of our significant investigations:

- In Seattle, thirteen individuals were indicted for money laundering and alleged violations of the International Emergency Economic Powers Act (or IEEPA) for transferring \$12 million to Iraq. Several bank accounts were seized. One person has been convicted so far, and additional prosecutions are pending.
- In Los Angeles, an international delivery service reported a suspicious package that was found to contain \$180,000. Another package was later interdicted and found to contain more than \$100,000. The BICE investigation has resulted in the seizure of approximately \$2.2 million in cash, and the indictment of one person for bulk currency smuggling.
- In New York, the investigation of an unlicensed money remitter revealed the illegal transfer of \$39 million to Pakistan. To date this investigation has resulted in ten indictments and convictions for operating an unlicensed money remitter service.
- In Miami, Libardo FLORES-GOMEZ, a South American money launderer, of wide repute, was stopped at the international airport and found to be in possession of unreported currency and monetary instruments. FLORES-GOMEZ admitted to acting as an unlicensed money remitter, and BICE's investigation revealed that he had laundered in excess of \$100 million for a

South American narco-terrorist organization. FLORES-GOMEZ was convicted of operating an unlicensed money remitter service.

- In Buffalo, BICE and FBI agents joined a Drug Enforcement Administration pseudoephedrine trafficking investigation, and quickly found that the subjects were operating an unlicensed money remitter service, sending money to the Middle East. During outbound searches, agents found negotiable instruments destined for Yemen. Three subjects were arrested and convicted of operating an unlicensed money remitter service.

- In Detroit, the investigation of several unlicensed money remitters who were sending funds illegally to Yemen resulted in the arrest of six persons and the seizure of five bank accounts and approximately twenty pounds of khat, a controlled substance. One person has been indicted and additional indictments are anticipated.

From these efforts, BICE has developed financial expertise in the money laundering methods that exploit charities, and other non-government organizations, money service businesses, alternate remittance systems, bulk currency smuggling and trade based money laundering. Additionally, BICE financial investigations have directly benefited from the USA PATRIOT Act, specifically in the areas of the expanded authority to identify accounts belonging to suspects, and the statutory changes related to unlicensed money service businesses and bulk cash smuggling.

In connection with the consolidation of Customs, U.S. Secret Service (USSS) and the Immigration and Naturalization Service (INS) investigative

resources within the Department of Homeland Security, Secretary Ridge and Attorney General Ashcroft signed a memorandum of agreement on May 13 of this year clarifying the roles and responsibilities of DHS financial investigators on terrorist financing cases, which are now coordinated through FBI-led Joint Terrorism Task Forces and FBI's Terrorist Finance Operations Section at headquarters, with full support of BICE. The BICE Financial Investigations Division continues to apply its unique expertise in identifying means and methods used by criminal organizations to exploit financial systems through the transfer, laundering and/or concealment of the true source of criminal proceeds. This mission is pursued by BICE's Cornerstone program, which was launched formally in July 2003.

Through Cornerstone, BICE seeks to expand working partnerships with industry representatives to share information and typologies, and to identify and eliminate vulnerabilities that can be exploited by criminal and terrorist organizations. Cornerstone will systematically and strategically examine financial systems that may be susceptible to abuse. Cornerstone relies on the worldwide network of thirty-seven Foreign Attaché offices, which have established and continue to maintain critical relationships with the corresponding law enforcement and other government entities in the host country. These relationships facilitate the timely and proper exchange of investigative information, avenues for host country investigation, liaison with other U.S. agencies overseas, training for foreign law enforcement officers, and other investigative functions.

To aid the financial industry in its efforts to shore up vulnerabilities in systems and infrastructure, BICE Financial Investigations Division is implementing the Systematic Homeland Approach to Reducing Exploitation - or SHARE - in concert with the Secret Service. BICE and USSS will host semi-annual meetings with executive members of the financial and trade communities that are impacted by money laundering, identity theft and various other financial crimes. "Tripwire" is a quarterly newsletter that BICE will provide to the financial sector under SHARE to address emerging trends, patterns and typologies in the money laundering arena.

III. Conclusion

BICE Special Agents have historically been recognized among the law enforcement community and the Federal government for their expertise in the analysis and investigation of illegal, international financial activities. That experience - and BICE's knowledge base - has been assimilated into the Department of Homeland Security, expanding the scope of investigations to include the financial aspects of U.S. Immigration law violations. Along with our law enforcement partners, BICE will continue to address future threats to our financial systems, regardless of the source or nature of those threats.

In conclusion, I would like to thank the distinguished Members of this Subcommittee for the opportunity to testify before you today. It would be my pleasure to answer any questions you may have.

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FEDERAL BUREAU OF INVESTIGATION
Before the
HOUSE COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
September 24, 2003

Good morning Madam Chairman and members of the Subcommittee on Oversight and Investigations. On behalf of the Federal Bureau of Investigation (FBI), I would like to express my gratitude to the Subcommittee for affording us the opportunity to participate in this forum and to provide comment to the Subcommittee on the FBI's efforts, in conjunction with other United States Government agencies, to stop terrorist financing and, in particular, how the FBI is contributing to those efforts to disrupt the financial support to the terrorist organization, Hamas.

Since September 11, 2001, the FBI has reallocated substantial resources to protect the American people from another terrorist attack. The FBI's Counterterrorism Division has made significant strides during its reorganization to provide a more centralized, comprehensive and pro-active approach to investigating terrorism-related matters to effectively disrupt and dismantle terrorist organizations before they are able to conduct attacks against citizens of the United States and/or her allies. With the changing nature of terrorism and recent technological innovations, the FBI has been called upon to implement new ways and techniques to identify, prosecute and most importantly prevent future crimes and attacks. The FBI has recognized that terrorists, their networks and support structures require funding in some form to exist and operate. Whether the funding and financial support is minimal or substantial, it leaves a financial trail that can be traced, tracked, and exploited for pro-active and reactive purposes. Being able to identify and track financial transactions and links after a terrorist act has occurred or terrorist activity has been identified represents only a small portion of the mission; the key lies in exploiting financial information in efforts to identify previously unknown terrorist cells, recognize potential terrorist activity/planning, and predict and prevent potential terrorist acts. The FBI bolstered its ability to effectively combat terrorism through the formation of the Terrorist Financing Operations Section (TFOS).

TFOS has developed tactical and strategic, time sensitive, financial investigative methodologies enabling the FBI to be recognized worldwide as the leader in this area. TFOS has evolved into a broader strategy to identify, investigate, prosecute, disrupt and dismantle incrementally all terrorist related financial and fund-raising activities. TFOS was created to take advantage of the FBI's traditional expertise in conducting complex criminal financial investigations in conjunction with advanced technologies and the powerful legislative tools provided in the USA PATRIOT Act. TFOS built upon these established mechanisms by

developing a strong support network within the private financial sector, as well as, furthering cooperation and coordination among law enforcement and intelligence agencies, both domestic and foreign, to form the preeminent terrorist financing investigative operation. In the past several months, TFOS capitalized on its capabilities by conducting real-time financial tracking of a terrorist cell and providing specific and identifiable information to a foreign intelligence agency, which resulted in the prevention of four, potential deadly terrorist attacks.

The TFOS mission includes: conducting full financial analysis of terrorist suspects and their financial support structures in the U.S. and abroad; coordinating joint participation, liaison, and outreach efforts to exploit financial resources of private, government, and foreign entities; utilizing FBI and Legal Attache expertise and relationships to fully develop financial information from foreign law enforcement and private agencies, including the deployment of TFOS personnel abroad; working jointly with the intelligence community to fully exploit intelligence information to further terrorist investigations; working jointly with the law enforcement and regulatory communities; developing predictive models and conducting data mining analysis to allow a proactive approach in identifying previously unknown or " sleeper " terrorist suspects; and providing the financial component to classified counterterrorism investigations in support of the FBI's counterterrorism responsibilities.

The purpose of today's hearing is to address issues regarding the financing of the terrorist organization, Hamas. By way of background, Hamas is one of the Specially Designated Terrorist Organizations listed in the Annex to Executive Order 12947 as a foreign terrorist group engaged in grave acts of violence that disrupt the Middle East Peace Process and constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

Hamas is a terrorist organization that espouses an extremist Islamic fundamentalist ideology. Hamas was founded in 1987 in the Gaza Strip and is dedicated to the establishment of an Islamic Palestinian State that encompasses Israel, the West Bank and Gaza. Hamas is a militant Palestinian offshoot of the Muslim Brotherhood which was founded in 1928 to replace secular rulers with an Islamic society.

In late 1987, activist members of the Muslim Brotherhood opted to play a more direct role in the popular uprising, known as the Intifada, than the Muslim Brotherhood leadership would allow. As a result, Sheikh Ahmad Yassin, then head of the Muslim Brotherhood in the Gaza Strip, formed Hamas. In May 1989, Yassin was arrested and in October 1991, he was tried and sentenced to life imprisonment by an Israeli court for Hamas terrorist activities.

In October 1997, following a failed Israeli attempt to kill Khalid Misha'al, another Hamas leader in Amman, Jordan, Yassin was released to the Jordanians and subsequently returned to Gaza. On October 29, 1998, Yassin was placed under house arrest by the Palestinian Authority (PA) following an unsuccessful Hamas suicide attack to blow up a bus full of school children in

Kfar Darom, which resulted in the death of an Israeli soldier. Yassin was released from house arrest two months later, in December 1998.

Hamas is primarily based in the West Bank and Gaza. When Hamas was declared an illegal organization by the Government of Israel (GOI) in 1989, Hamas leaders moved its support structures outside Israel.

Hamas has publicly rejected Yasir Arafat and the PA as the representatives of the Palestinian people. Hamas also announced that it opposes the Palestine National Council's 1988 decision to establish an independent Palestinian state in the West Bank. Since the group's inception, Hamas has forged significant inroads into acceptance by mainstream Palestinians.

The ideology of Hamas is codified in the Hamas covenant. This covenant establishes Hamas' primary goal as the creation of an Islamic State in all of Palestine through "Jihad" (Holy War). Hamas' covenant emphasizes Jihad as the immediate and sole solution to Palestinian problems and regards participation in the armed struggle as the duty of every Muslim. Hamas absolutely rejects any political solution entailing the concession of any part of historic "Palestine."

The primary tenets of Hamas philosophy are opposition to compromise with Israel over creation of a Palestinian State and replacement of the PA as the sole representative of the Palestinian people. To these ends, Hamas pursues a combined program of violence and terror on one hand, and educational, charitable, and social functions on the other. The principal purpose of its armed attacks is to intimidate and coerce the GOI and its civilian population. Its benevolent programs are used to enhance its image and earn goodwill in the Palestinian community.

An interview with a senior Hamas spokesman identifies the influence the political wing of Hamas has over the military wing. In a July 31, 2001, Reuters article, Abdel-Aziz al-Rantissi, a senior Hamas official and spokesman stated, "The (Hamas) political leadership has freed the hand of the brigades to do whatever they want against the brothers of monkeys and pigs." The term "brigades" refers to the group's military wing, Izz el-Din al-Qassam brigades. Rantissi further stated, "I urge all the brigades to chase and target the Israeli political leaders and members of parliament, the killer (Prime Minister Ariel Sharon) and the criminal (Foreign Minister) Shimon Peres." This was believed to be the first public call by Hamas to target Israeli leaders. According to the article, "Hamas' political wing determines overall policy for the movement."

Even after the September 11, 2001 terrorist attacks against the World Trade Center and Pentagon, Hamas' public statements urge support for continued violence against Israel and the United States. In a September 2001 public statement published by Reuters, Rantissi echoed calls by Taliban clerics in Afghanistan, urging "Muslims on Friday to unite against any U.S.

retaliation for the terror attacks in New York and Washington." He went on to say, "It is impossible for Muslims to stand handcuffed and blindfolded while other Muslims, their brothers, are being attacked. The Muslim world should stand up against the American threats which are fed by the Jews. To the best of our knowledge, Hamas has thus far refrained from intentionally attacking U.S. persons or installations.

Through its acts of violence, Hamas has established itself as one of the primary Palestinian terrorist organizations continuing the "armed struggle" against Israel. These terrorist attacks target not only military targets, but civilian ones as well. According to the State Department, during 2002 alone, more than 370 persons, including 10 U.S. citizens, were killed in Israel, the West Bank and the Gaza Strip by acts of terrorism. These casualties have continued to mount, including during the past two weeks, when a Hamas terrorist attack killed two U.S. citizens and wounded one.

The United States designated Hamas a specially designated terrorist organization on January 25, 1995. This designation made it a violation of the International Emergency Economic Powers Act (IEEPA) to conduct any financial or business transaction with Hamas. On August 22, 2003, in the wake of Hamas' claim of responsibility for the August 19, 2003 suicide bombing attack in Jerusalem, which killed twenty persons, including four U.S. citizens, the U. S. Department of Treasury's Office of Foreign Asset Control, designated the following Hamas leaders as "specially designated global terrorists"; Sheikh Ahmad Yassin, Khalid Misha'al, Abd Al-Aziz al-Rantissi, Imad Khalil Al-Alami, Usama Hamdan and Mousa Abu Marzouk. Mousa Abu Marzouk, a senior Hamas political leader had been previously designated as a terrorist by the Department of Treasury in August, 1995 and was subsequently deported from the United States. These designations make it illegal to conduct any transactions with these individuals. Furthermore, based on the designations, the United States government will seek to freeze all U.S. assets of these Hamas leaders. The following four organizations, based mainly in Europe and the West Bank, were similarly designated as supporters of terrorism; Comité de Bienfaisance et de Secours aux Palestiniens, Palestinian Association of Austria (PVOE), Palestinian Relief and Development Fund (Interpal) and Sanibil Association for Relief and Development.

The U.S. Government estimates that Hamas' annual budget is at least \$50 million. The majority of these funds are generated by the contributions of Non Government Organizations (NGOs), state sponsors and wealthy individuals. While most of these funds may be used to support the social programs espoused by Hamas, any contribution to Hamas, for any purpose, frees up other funds for its planned violence. The leaders of Hamas have taken advantage of donations made to NGOs and charities, which may appeal for the need to support orphans and widows, as well as, build schools and hospitals, but are actually "fronts" for Hamas and use a portion of these contributions to support the terrorist organization's military wing. Many donors believe that their charitable contributions were fulfilling one of their tenets of Islam (Zakat), but have unwittingly supported terrorist attacks through payments made to the NGOs and charities, which are actually Hamas "front" companies. Others have contributed financial assistance because they sympathized with the Palestinian people, who have suffered socio-economic hardships, as a result of the past three years increased violent conflict. These charities are an

easy target for fraud, as certain funds, which were originally provided for charitable purposes find their way to supporting Hamas' military wing and ultimately are the source for terrorist attacks.

The United States Government designated all facets of Hamas as a terrorist organization, since it was impossible to differentiate between money Hamas was utilizing for social reform and funds which supported terrorist attacks. The European Union (EU) had until recently only designated Hamas' military wing as a terrorist organization. However, through evidence and intelligence provided by the U.S. government, the EU has taken steps to restrict all branches of Hamas and may move to block funding to its political bureau, fund-raising charities and other social welfare programs. The EU's recent decision has the potential to further disrupt Hamas' funding methods by eliminating its prior strategy of using NGOs and charities as "front" companies to generate financing for its terrorist attacks.

The FBI's program on attacking Hamas elements in the United States has been to focus on disrupting and dismantling the funding networks which support Hamas. In the United States, the majority of Hamas' financial support is generated through the fund-raising efforts of various NGOs. In December, 2001, based on the initiative of an FBI investigation, the Department of Treasury designated the Holy Land Foundation for Relief and Development (HLFRD) as a Specially Designated Terrorist Organization, freezing the assets of HLFRD and making it illegal to conduct transactions with the organization. The FBI was an intricate contributor to the evidence which identified HLFRD as the lead fund-raising source for Hamas in the United States. In 2000, HLFRD had raised approximately \$13 million dollars. The results of the Department of Treasury's designation of HLFRD and the subsequent freezing of its assets delivered a significant blow to the fund-raising efforts of Hamas in the United States. Presently, the FBI is focused on identifying NGOs, which seek to replace HLFRD's position as the major financier of Hamas in the U.S. To date, no NGOs exist which compare with the fund-raising capabilities exhibited by HLFRD. The FBI is also investigating smaller Hamas financing efforts being conducted by criminal enterprises in the U.S., which have shown either associations with known Hamas members or sympathies toward its ideology. These investigations have uncovered a myriad of criminal activities used to generate funds, a portion of which is then forwarded to NGOs associated with Hamas. Some of the suggested criminal activity include, but are not limited to, drug trafficking, credit card fraud, counterfeit products, fraudulent documents, cigarette tax fraud and stolen infant formula.

Although the majority of these matters are on-going investigations, I would like to point out some of the successes that the FBI has enjoyed recently regarding Hamas and other terrorist organizations investigations, as well as, update the status of cases alluded to during former Deputy Assistant Attorney General Alice Fisher's March 11, 2003 testimony to this Subcommittee.

- On four separate occasions, the FBI has received financial information, from a foreign intelligence agency, which was related to the funding of a pending terrorist attack. The FBI exploited an established source in the private financial sector to conduct real-time

tracking of the subject financial transactions. The FBI provided the foreign intelligence agency with specific and identifiable information regarding the parties involved in the financial transactions, as well as, the locations and times where the transactions occurred. Based on this information, the foreign intelligence agency was able to locate the members of terrorist cells and prevent them from conducting their intended terrorist attacks.

- In January, 2003, German law enforcement authorities, who had been working closely with the FBI, arrested Mohammed Al Hasan Al-Moayad, a Yemeni national, for purposes of his extradition to the U.S. to face charges of conspiring to provide material support to Al Qaeda and Hamas and to have boasted that he had provided over \$20 million to Osama Bin Laden. The U.S. investigation indicates that Al-Moayad had participated in several fund-raising events at the Al Farouq Mosque in Brooklyn, NY. Al-Moayad was arrested during a meeting in Germany, where he believed that he was to receive a large financial contribution, which he advised a source would be used to support mujahideen fighters of Al Qaeda and Hamas. One of Al-Moayad's associates, also wanted in the U.S., was arrested at the same time. In addition, other associates in New York were arrested on charges of violating bank reporting requirements by structuring over \$300,000.00 in several bank accounts in the United States. The extradition proceedings against Al-Moayad are pending in Germany.
- In December, 2002, a federal grand jury in Dallas returned an indictment against a senior leader of Hamas, Mousa Abu Marzouk, for conspiring to violate U.S. laws that prohibit dealing in terrorist funds. Also charged and arrested by the FBI were Ghassan Elashi, the chairman of the Holy Land Foundation for Relief and Development. Elashi and four of his brothers, all of whom are employees of the Richardson, Texas, based InfoCom Corporation, were charged with selling computers and computer parts to Libya and Syria, both designated state sponsors of terrorism. The indictment alleged that the Elashi brothers disguised capital investment from Marzouk, a specially designated terrorist for his admitted leadership role with Hamas, for their telecommunications company, InfoCom. The indictment and subsequent arrests have disrupted a U.S.-based business, which was conducting its activities with a known Hamas leader and state sponsors of terrorism in violation of U.S. laws.
- In October, 2002, the FBI and other U.S. government agencies assisted German authorities in identifying and taking legal action against Hamas in Germany. Through the efforts of the FBI, including TFOS, exchanges with Germany led to the closure of the Al-Aqsa Foundation in Germany, a suspected Hamas fund-raising organization.
- The FBI coordinated with the Office of Foreign Asset Control (OFAC) to justify the blocking of Holy Land Foundation for Relief and Development (HLFRD) assets and the closing of its U.S. offices, shutting down Hamas' largest fund-raising entity in the U.S. The HLFRD had been linked to the funding of Hamas terrorist activities, and in 2000, HLFRD raised \$13 million dollars.

- The offices of the Benevolence International Foundation (BIF), a U.S.-based charity, were shut down and its assets and records blocked following an investigation which determined that the charity was being used to funnel money to Al Qaeda. In February 2003, Enaam Arnaout, the head of BIF, pled guilty to racketeering conspiracy, admitting he fraudulently obtained charitable donations in order to provide financial assistance to persons engaged in violent activities overseas. Arnaout was recently sentenced to eleven years in prison.
- A criminal case against Sami Al Arian, the alleged U.S. leader of the Palestinian Islamic Jihad (PIJ), and the World Islamic Studies Enterprise has forced the closure of several front companies suspected of funneling money to support PIJ operations against Israel. In August 2002, the investigation led to the deportation of Mazen Al-Najjar, the brother-in-law of Sami Al Arian and a known PIJ member. In February, 2003, following a 50-count indictment for RICO and Material Support of terrorism violations, the FBI arrested Al-Arian and three other U.S.-based members of PIJ, including Sameeh Hammoudeh, Hatim Naji Fariz, and Ghassan Ballout. The FBI also executed seven search warrants associated with this action.
- The FBI has utilized the legislative tools provided in the USA PATRIOT Act to further its terrorist financing investigations. Some examples of how TFOS has used the provisions in the USA PATRIOT Act are: to obtain foreign bank account information by issuing an administrative subpoena on a foreign bank's U.S. correspondent bank; corroborated financial data obtained through criminal investigative techniques with intelligence sources; and provided grand jury material to a foreign intelligence agency. All of these techniques have significantly assisted ongoing terrorism investigations and would not have been possible, but for the enactment of the USA PATRIOT Act.

These successes were the result of coordination, cooperation and intelligence sharing between both U.S. and foreign law enforcement and intelligence agencies. The critical importance of domestic and international inter-agency cooperation, coordination and information sharing cannot be understated. Terrorism represents a global problem. The solution is grounded in what would have been considered prior to 9/11, unprecedented international cooperation and coordination. The threat it poses must always be considered imminent. In addition to considerable financial investigative expertise, addressing terrorism and the finances that support and propagate it requires the ability to both implement proactive and preventive approaches to disrupt and dismantle as well as the ability to conduct highly reactive immediate response financial investigations to address potential imminent threats. The FBI understands that combating terrorist financing is a mission, which it can not accomplish on its own. Through TFOS, the FBI has succeeded in building strong working relationships with all U.S. government law enforcement and intelligence agencies who are fighting the war on terror. TFOS is both an operational and coordinating entity with pro-active and reactive responsibilities. As a coordinating entity, TFOS is responsible for ensuring that a unified approach is pursued in investigating terrorist financing networks. TFOS achieves this directive by: 1) coordinating the financial aspects of FBI Field Office and Legat terrorism investigations; 2) establishing overall

initiatives, policy and guidance on terrorist financing matters; 3) participating in the National Security Council's Policy Coordinating Committee (PCC) on Terrorist Financing; 4) coordinating national liaison with the financial services sector; 5) cooperating in and coordinating criminal terrorist financing investigations with the Department of Justice; and 6) providing support and training to Field Offices to include the designated Terrorism Financing Coordinator (TFC).

Recently, the Department of Justice (DOJ) and the Department of Homeland Security (DHS), executed a Memorandum of Agreement (MOA), which provided for a centralized coordination among U.S. governmental agencies investigating terrorist financing matters. The MOA addresses the importance of waging a seamless, coordinated campaign against terrorist sources of financing. It was signed by Attorney General Ashcroft and Homeland Security Secretary Ridge on May 13, 2003. Prior to this agreement, both the DOJ and DHS had separate terrorist financing task forces. Under DOJ, the FBI had the TFOS, which was discussed earlier. The DHS had the Bureau of Immigration and Customs Enforcement (ICE) led Operation Green Quest (OGQ).

Pursuant to the MOA, OGQ ceased to exist as a program name as of June 30, 2003. Accordingly, the FBI was designated to lead terrorist financing investigations and operations. It was agreed that DHS would focus its activities on protecting the integrity of U.S. financial infrastructures. To that extent, the DHS implemented the ICE led Operation Cornerstone. Operation Cornerstone will identify vulnerabilities in financial systems through which criminals launder their illicit proceeds, bring the criminals to justice and work to eliminate the vulnerabilities.

The majority of the former OGQ case inventory was criminal cases, with no nexus to terrorism. These cases were converted from OGQ to Operation Cornerstone. Those cases that had a nexus to terrorism that were investigated by the former OGQ are currently being assessed for transition to the appropriate FBI Joint Terrorism Task Force (JTTF). Ongoing and future Operation Cornerstone investigations that develop links to terrorism will be referred to the FBI through TFOS. ICE and TFOS have created a joint-vetting process to coordinate investigative initiatives that will enable ICE to identify financial systemic vulnerabilities and which will enable TFOS to identify ties to terrorism and terrorist financing. In addition, an ICE agent was assigned to TFOS as a Deputy Section Chief, and investigators from ICE will be represented on the JTTFs.

In addition to the cooperation amongst U.S. law enforcement and intelligence agencies, TFOS has enjoyed unprecedented successes with its foreign counterparts. The FBI recognized the vital necessity for cooperation with its foreign counterparts and has taken a leadership role within the international community to coordinate efforts to combat terrorist financing. For the past year, members of TFOS have traveled to countries in the Middle East, South America, Asia, Africa and Europe and provided training for our foreign partners as part of an outreach initiative. Because of TFOS' recognized expertise, both domestically and internationally, in the area of terrorist financing investigations, many of our international partners have patterned similar investigative units based on the methodologies and mechanisms successfully used by TFOS.

The National Security Council formalized the Policy Coordinating Committee (PCC) on Terrorist Financing at the end of 2001. Treasury chairs the PCC and representatives from the Central Intelligence Agency, the Department of Defense, the Department of Justice, the Federal Bureau of Investigation, the Department of Homeland Security, the National Security Council and the State Department attend meetings. An element of the PCC is the State Department-led coalition building initiative.

The PCC meets on a regular basis to coordinate the United States government's campaign against terrorist financing. The meeting generally focuses on ensuring that all relevant components of the federal government are acting in a coordinated and effective manner to combat terrorist financing.

Since September 11, 2001, TFOS has received consistent cooperation with the private financial sector. TFOS recognized the immediacy of the threats that terrorist attacks present and through its liaison efforts, developed a 24/7 contact list within the financial community. This allows TFOS to respond to emergency situations when a time urgent response is required to receive information. TFOS has sponsored and participated in a series of conferences and roundtable discussions with representatives from the financial services industry. These outreach efforts have allowed the FBI to educate the private financial sector on our investigative methods and establish data sharing and acquisition protocols necessary to combat terrorist financing and prevent future attacks. This initiative has allowed the FBI to take into consideration constitutional privacy concerns while continuing to build a strong support network from the financial sector.

The amount of funds generated and laundered both domestically and internationally in support of terrorist activities is difficult to determine. Currently, no verifiable or hard numbers exist which adequately quantify these funds. Intelligence and evidence derived from past and current investigations and seizures give us some idea of the situation, but the full scope of this problem is still unknown. However, many agencies and governments are coming to realize the critical need to cut off and deny terrorists and their support networks access to the funds necessary to carry out acts of aggression.

The FBI fully recognizes the fact that terrorist financing, including that of Hamas, cannot be completely eradicated. However, the importance of terrorist financing investigations must not be minimized. These investigations have disrupted, diminished and prevented terrorist attacks by cutting off the financial lifeblood of these organizations. The FBI has taken a methodical and incremental approach in developing financial investigative techniques. By exploiting vulnerabilities to funding flows of terrorist networks and operatives all levels of terrorist operations have been adversely impacted. One needs to look no further than the fact that the methodologies and mechanisms employed by TFOS have recently prevented four separate terrorist attacks from occurring to demonstrate the significance of these types of investigations. The FBI appreciates the opportunity to work with this Subcommittee to ensure that law enforcement efforts can be most effective. I thank you for inviting the FBI to appear today and welcome any questions you may have.

TESTIMONY BY E. ANTHONY WAYNE
ASSISTANT SECRETARY FOR ECONOMIC AND BUSINESS AFFAIRS
DEPARTMENT OF STATE
TO THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES

September 24, 2003

THE HAMAS ASSET FREEZE AND OTHER GOVERNMENT EFFORTS
TO STOP TERRORIST FINANCING

Mr. Chairman and distinguished members of the Committee: thank you for the opportunity to testify on U.S. efforts to combat terrorist financing, including the recent U.S. designation of five HAMAS charities and six HAMAS leaders under Executive Order 13224.

The United States remains engaged in a long-term war against terrorism. I thank you for your support and for providing the necessary tools for waging this war. This fight requires actions on several fronts. A critical front is the effort to defeat, disrupt, and destroy the financial networks that sustain these organizations and finance their operations.

Before I address HAMAS, I believe it is important to recognize how far we have come in terms of USG interagency coordination when it comes to dealing with terrorist financing. We have made enormous strides in improving the degree to which all U.S. agencies with equities related to the pursuit of terrorist financing cooperate and coordinate their efforts. This strong interagency teamwork involves the intelligence and law enforcement communities, as well as State, Treasury, Homeland Security and Justice collectively pursuing an understanding of the system of financial backers, facilitators and intermediaries that play a role in this shadowy financial world. It involves the Treasury Department coordinating the policy process by which we examine actions to disrupt these financial networks. It involves the Department of Justice leading investigations and prosecutions in a seamless, coordinated campaign against the sources of terrorist financing. And, it involves the State Department leading the interagency process through which we develop and sustain the bilateral and multilateral relationships, strategies and activities, including the provision of training and technical assistance, to win vital international support for and cooperation with our efforts.

A Policy Coordination Committee established under the framework of the National Security Council and chaired by the Department of the Treasury ensures that these activities are well-coordinated. The Department of State, the Department of the Treasury, the Department of Justice, the Department of Homeland Security, intelligence agencies, and law enforcement agencies all work very closely together in this effort. The Department of Homeland Security is a recent addition to the framework and we look

forward to involving them in the disruption of terrorist networks. Our task has been to identify, track and pursue terrorist financing targets and to work with the international community to take measures to thwart the ability of terrorists to raise and channel the funds they need to survive and carry out their heinous acts. We have briefed your staff in closed session and there may be questions you have that will need to be answered in a classified setting or for the record.

A key weapon in this effort has been the President's Executive Order 13224, which was signed on September 23, 2001, just 12 days after the terrorist attacks of September 11. That Order provided the basic structure and authorities for an effort, unprecedented in history, to identify and freeze the assets of individuals and entities associated with terrorism across the board. Under that Executive Order, the Administration has frozen the assets of 321 individuals and entities. The agencies cooperating in this effort are in daily contact, looking at and evaluating new names and targets for possible asset freeze. However, our scope is not just limited to freezing assets. This is a collaborative, results-based, decision-making process, in which we all share the common goal of clamping down on terrorist financing. We have very successfully used other actions as well, including developing diplomatic initiatives with other governments to conduct audits and investigations, exchanging information on records, cooperating in law enforcement and intelligence efforts, and in shaping new regulatory initiatives. We recognize, however, that designating names is -- along with arrests -- the action that is most publicly visible. But, designations are, in no way, the only action underway. Allow me to stress this point, particularly because some questions have been raised by commentators in this regard: Every approach the PCC has adopted regarding a specific target has involved extensive, careful work. We need to make sure we have credible information that provides a reasonable basis linking the individual or entity to terrorism; we need to weigh the options available to us for addressing the target; we need to identify the most effective approach, realizing that we may shift gears and adopt a different strategy later on. We want to be right, legal and effective. In some cases we support public action, such as designations, in other cases we choose other methods, including law enforcement, intelligence, or getting another country to undertake law enforcement or intelligence action. At the end of the day, all our actions combined, and the efforts of countries around the world, have succeeded in making it more difficult for terrorists to move and collect funds around the world, in particular through regular banking channels.

Internationally, the UN's role in responding to the challenge of terrorist financing has been crucial: The UN helped to give international impetus and legitimacy to asset freezes and to underscore the global commitment against terrorist financing. This is extremely important, because: 1) most of the assets making their way to terrorists are not under U.S. control and 2) when it comes to al Qaida in particular, it means that when an individual or entity is included on the UN's sanctions list, all 191 UN Member States are obligated to implement the sanctions, including asset freezes. It has added a total of some 217 names to its consolidated list since September 11.

Let me now address the issue of the U.S.'s recent HAMAS designations. On August 22, the President announced the designation for asset-freezing of the following five HAMAS

fundraisers: CBSP (*Comite de Bienfaisance et de Secours aux Palestiniens*), ASP (*Association de Secours Palestinien*), Interpal, Palestinian Association in Austria (PVOE) and Sanabil Association for Relief and Development. He also announced the designation of six top HAMAS leaders (*Sheikh Yassin, Imad al Alami, Usama Hamdan, Khalid Mishaal, Musa Abu Marzouk and Abdel Aziz Rantisi*). Earlier this year, the U.S. also designated for asset-freezing another HAMAS charity, the al Aqsa Foundation.

HAMAS' recent suicide bombings demonstrate the organization's commitment to undermining real efforts to move towards a permanent peace between Israel and the Palestinians. HAMAS and other Palestinian rejectionist groups must not be permitted to undermine the aspirations of the Palestinian people for a viable, secure state living side by side with Israel in peace and security. While the Palestinian Authority and Arab states have endorsed the road map devised by the Quartet, HAMAS continues to reject constructive efforts toward a peaceful solution to the Middle East conflict.

Shutting off the flow of funds to HAMAS is crucial to reducing HAMAS' ability to carry out its activities and to thwart progress towards peace. HAMAS is also clearly a threat to Palestinian reform, including Palestinians committed to a negotiated peace. HAMAS has used its charities to strengthen its own standing among Palestinians at the expense of the Palestinian Authority.

In light of this, the U.S. welcomed the EU's recent decision to designate HAMAS in its entirety as a terrorist organization. Previously, the EU had only designated Izzadin al Kasseem, HAMAS' "military wing" as a terrorist entity.

We have also urged governments throughout the region to take steps to shut down both HAMAS operations and offices, and to do everything possible to disrupt the flow of funding to HAMAS, and other Palestinian organizations that have engaged in terror to disrupt peace efforts. This is a sensitive issue, given that some of these financial flows are used to support charitable activities. There can be no doubt, however, that donations to HAMAS for charitable purposes free up funds for use in terrorism. We will continue to engage with regional governments to prevent any funding of HAMAS and other groups that have engaged in terror.

In all our discussions with EU Governments on this matter, EU states have raised serious concerns about addressing the basic humanitarian needs of the Palestinian population. Even as we try to shut off the flow of funds to HAMAS, it is important to remember that a significant portion of this money has gone to provide extensive basic services to the Palestinian population -- services the Palestinian Authority does not yet have the resources to step in and provide. This is a concern that the U.S. shares and is working with our Quartet partners and others to address.

Let me comment briefly on one issue. In many contexts we have had candid and very useful exchanges on the concept of "diplomatic action." Let me just briefly characterize for you the forceful types of actions that we refer to under the rubric "diplomatic action," a phrase that we well know isn't always assumed to be a synonym for "armed and

dangerous.” But we would consider ourselves second to no agency in the forcefulness and persuasive potential of the tools at our disposal, as validated by the fact that, often, the interagency concurs on a recommendation to wield diplomacy as a weapon against terrorists. When we talk about diplomatic approaches for dealing with targets, we are talking about getting other governments to cooperate in the war against terrorist financing by taking concrete actions of their own, including law enforcement and intelligence actions, as well as getting them to speak out publicly against terrorist groups. It has involved encouraging foreign governments to prosecute key terrorists and terrorist financiers; to extradite a terrorist financier; to pass strong anti-terrorist financing legislation; to prohibit funds from being sent to a charity; and to make sure companies funneling funds to terrorists are shut down. Diplomatic action also means improving conditions for our colleagues in other agencies to work more effectively with their foreign counterparts in the fight against terrorist financing. The results obtained through such diplomatic strategies are crucial to our long-term success.

As we move forward with refined strategies, we will continue to work actively with other governments in different regions of the world to make further progress in our fight against terrorist financing. In the Gulf, we will continue our intensive and senior-level cooperation with the Saudi Government and others. This includes actions like the joint submission to the UN for asset freezing of the Bosnian and Somali branches of the Saudi charity al Haramain and the similar designation of Wael Julaydan, a prominent Saudi al Qaida financier. These actions as well as other important initiatives such as cooperation in building a Joint Terrorist Finance Task Force, we believe are, and will continue to be, productive and in the interest of protecting and saving American lives. In Asia, we will continue to work with governments to confront Jemaah Islamiyah (JI), including its sources of funding. In the last few weeks, the UN has listed twenty new names of individuals associated with JI whose assets UN member states are obligated to freeze.

Through our interagency-supported training and technical assistance and capacity-building programs, we have identified and continue to identify important vulnerabilities and actively work with our partners to redress these concerns. We are also integrating the lessons learned into training programs for relevant US agencies. Countries around the world are enacting important legislation and developing comprehensive counter-terrorism finance regimes to help give them the tools they need to combat terrorist financing; and the Financial Action Task Force (FATF), a group of 31 countries devoted to combating money laundering and the financing of terrorism, is developing international standards for legislation to combat terrorist financing. In this hemisphere, the OAS/CICAD Money Laundering Experts Group is drafting model laws and regulations that nations may adapt, enact and implement to fulfill their FATF commitment to combat terrorist financing. We have made it more difficult for terrorists to move and collect funds, but we still have a long way to go given the dimensions of this challenge.

Mr. Chairman, thank you for the opportunity to address this important issue.

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